



CITY OF WESTON, FLORIDA

DESIGN-BUILD SERVICES
VISTA PARK ARTIFICIAL TURF SOCCER FIELDS

REQUEST FOR QUALIFICATIONS
NO. 2024-03

Volume 1 of 2

CITY OF WESTON, FLORIDA

REQUEST FOR QUALIFICATIONS (RFQ) NO. 2024-03

DESIGN-BUILD SERVICES
VISTA PARK ARTIFICIAL TURF SOCCER FIELDS

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DESIGN CRITERIA PACKAGE – PREPARED BY EAC CONSULTING,
INC.

SECTION 1

NOTICE TO PROPOSERS

NOTICE IS HEREBY GIVEN that the City of Weston, Florida, (the "CITY") will be accepting sealed proposals for:

DESIGN-BUILD SERVICES
VISTA PARK ARTIFICIAL TURF SOCCER FIELDS
REQUEST FOR QUALIFICATIONS ("RFQ") NO. 2024-03

Pursuant to Section 287.055, Florida Statutes, the CITY requests proposals from qualified experienced firms to provide design-build services to replace two existing natural turf soccer fields with artificial turf fields at the City of Weston's Vista Park located at 18800 Vista Park Blvd., Weston, FL 33327, in accordance with the Design Criteria Package (the "Project").

Design-Build Services shall include but is not limited to professional engineering specifically relating to the planning, design, construction, any supplemental surveys, any supplemental geotechnical investigation, preparation of all documentation related to the acquisition of all required permits, preparation of any and all information required to acquire said required permits, maintenance of traffic, site preparation, site clearing, site demarcation, coordination for utilities relocations/adjustments, demolition, and construction of all proposed improvements before the Project completion date as required in this RFQ.

This solicitation includes a two-step process consisting of the evaluation of PROPOSER's qualifications and experience for ranking prior to negotiating a Guaranteed Maximum Price ("GMP") in the form set forth in Exhibit B – Fee Schedule of the Form Agreement provided in Section 6 herein or a mutually agreed Fee Schedule, and guaranteed completion date.

Simultaneous with the delivery of the executed Agreement to the CITY, the CONTRACTOR shall furnish an executed Performance and Payment bond in an amount equal to one hundred percent (100%) of the contract amount, as security for the faithful performance of the contract and for the payment of all persons performing labor and/or furnishing materials in connection with the Project.

PROPOSERS are advised that the CITY has NOT authorized the use of City's seal by individuals or entities responding to the CITY's Bid, and that any such use by unauthorized persons or entities constitutes a second-degree misdemeanor pursuant to Section 165.043, Florida Statutes.

QUALIFICATIONS

The PROPOSER must be a design-build firm as defined in Section 287.055(2)(h), Florida Statutes, and 1) shall have been in continuous practice for a minimum of the immediate past ten (10) years; 2) shall have completed at least two projects for governmental agencies with infrastructure similar in scope, size and complexity as this project; 3) shall have been authorized to do business in the State of Florida for a minimum of the immediate past ten (10) years; and 4) shall be licensed to practice engineering or certified to engage in contracting in the State of Florida and must be fully licensed with all required State and/or Local government licenses and certificates.

NON-MANDATORY PRE-PROPOSAL CONFERENCE

A non-mandatory pre-proposal conference shall be held virtually at **11:00 a.m. local time on March 18, 2024**. Connect to the Live Event link via Cisco Webex:

Event:	Pre-Proposal for RFQ No. 2024-03 for Design Build - Vista Park Artificial Turf Soccer Fields
Event address for attendees:	https://westonfl.webex.com/westonfl/j.php?MTID=m1fc49ece855579d65b03adf9c411441b You may also connect to: www.webex.com <ul style="list-style-type: none"> • Click "Join a Meeting" • Enter Event/Meeting Number
Date and Time:	Monday, March 18, 2024 11:00 AM Eastern Standard Time (New York, GMT-05:00)
Event Number:	2305 855 5626
Event Password:	weston (937866 from phones and video systems)
Audio conference:	Join by phone 415-655-0001 US Toll Access code: 230 585 55626

PROPOSAL SUBMITTAL DEADLINE

Sealed proposals shall be received by the Director of Procurement until **2:00 p.m. local time, on April 4, 2024 (the "Submittal Deadline")** at the City of Weston, City Hall, located at 17200 Royal Palm Boulevard, Weston, Florida. The official clock at the City Hall reception desk shall govern as to time submitted. Proposals received after this time shall be returned unopened. See Section 4 of this RFQ as to the preparation of the Proposal. The sealed proposals will be publicly opened at the City of Weston, City Hall after the Proposal Submittal Deadline. Award of a proposal will be made at a City Commission meeting. The public opening of submittals may be viewed by the public via Cisco Webex as follows:

Event:	Opening for RFQ No. 2024-03 for Design Build - Vista Park Artificial Turf Soccer Fields
Event address for attendees:	https://westonfl.webex.com/westonfl/j.php?MTID=mce806ea1e708e7f39421ca4c46d463eb You may also connect to: www.webex.com <ul style="list-style-type: none"> • Click "Join a Meeting" • Enter Event/Meeting Number
Date and Time:	Thursday, April 4, 2024 2:00 PM Eastern Standard Time (New York, GMT-05:00)
Event Number:	2304 909 2451
Event Password:	weston (937866 from phones and video systems)
Audio conference:	Join by phone 415-655-0001 US Toll Access code: 230 490 92451

AVAILABILITY OF RFQ DOCUMENTS

Interested parties may download a copy of RFQ No. 2024-03 for Design-Build Services Vista Park Artificial Turf Soccer Fields by visiting the CITY's Procurement website at: <https://www.westonfl.org/government/procurement>. Solicitation documents are also available for electronic download from Demand Star at <http://www.demandstar.com>.

QUESTIONS

Any questions concerning this Request for Qualifications shall be submitted in writing to the Director of Procurement, Martha Perez-Garviso at mperezgarviso@westonfl.org, with "RFQ No. 2024-03 for Design-Build Services Vista Park Artificial Turf Soccer Fields" in the subject line by 4:00 p.m., local time at least five business days prior to the submittal deadline.

CONE OF SILENCE

A cone of silence is imposed regarding this RFQ upon publication of this Notice to Proposers. The cone of silence prohibits communications with the following individuals pertaining to this RFQ:

City Commission:

Margaret Brown, Mayor,
Byron L. Jaffe, Commissioner,
Mary Molina-Macfie, Commissioner,
Chris Eddy, Commissioner, and
Henry Mead, Commissioner

Selection Committee:

Thaddeus Bielecki, Director of Landscaping, Selection Committee Member;
Bryan Cahen, Director of Budget, Selection Committee Member;
Peter Johnson, Assistant Director of Public Works, Selection Committee Member;
Denise Barrett-Miller, Director of Communications, Alternate Selection Committee Member; and

Any member of the Protest Committee, if and when established.

The details of the CITY's Cone of Silence are set forth in Section 32.10 of the City Code.

The Selection Committee, identified above, shall convene at a publicly noticed meeting and review submissions, rank and evaluate the proposals and provide a recommendation to the City Manager.

RIGHTS RESERVED

1. The CITY (through the City Commission, City Manager, Selection Committee or Protest Committee) reserves the right to:
 - A. Reject any or all proposals;
 - B. Waive any informality in a proposal;
 - C. Waive any deficiency or irregularity in the selection process;
 - D. Accept or reject any or all qualifications statements in part or in whole; and
 - E. Request additional information as appropriate.

2. The City Commission reserves the right to:

- A. Award all or a portion of the services set forth in the RFQ as determined to be in the best interest of the CITY; and
- B. Reject any or all Proposals if found by the City Commission to be in the best interest of the CITY.
- C. Award an Agreement to one or more than one PROPOSER, make split or multiple awards as determined to be in the best interest of the CITY.
- D. In the event of a sole proposal, reject the sole proposal.

Martha Perez-Garviso
Director of Procurement
City of Weston

Published: March 4, 2024

SECTION 2

BACKGROUND INFORMATION

2.1 General

Pursuant to Section 287.055, Florida Statutes, the CITY requests proposals from qualified experienced firms to provide design-build services to replace two existing natural turf soccer fields with artificial turf fields at the City of Weston's Vista Park located at 18800 Vista Park Blvd., Weston, FL 33327.

Design-Build Services shall include but is not limited to professional engineering specifically relating to the planning, design, construction, any supplemental surveys, any supplemental geotechnical investigation, preparation of all documentation related to the acquisition of all required permits, preparation of any and all information required to acquire said required permits, maintenance of traffic, site preparation, site clearing, site demarcation, coordination for utilities relocations/adjustments, demolition, and construction of all proposed improvements before the Project completion date as required in this RFQ.

This solicitation includes a two-step process consisting of the evaluation of PROPOSER's qualifications and experience for ranking prior to negotiating a Guaranteed Maximum Price ("GMP") in the form set forth in Exhibit B – Fee Schedule of the Form Agreement, provided in Section 6 of this RFQ or a mutually agreed Fee Schedule, and guaranteed completion date.

The CITY reserves the right to conduct investigations as it deems necessary, to determine the ability of the PROPOSER to perform the work or services. Information the CITY deems necessary to make a determination shall be provided by the PROPOSER upon request.

The PROPOSER is prohibited from exempting any provisions of this RFQ and Agreement.

2.2 Scope of Services

The Design-Build Services required under this RFQ includes design, construction, and post-construction tasks, including performance testing; startup commissioning; and operator training and support per the design criteria package provided in Volume 2 and the negotiated terms of the contract including any subsequent approved modifications. The scope of services as a minimum shall include the following:

- A. Evaluation and updating of recommended improvements provided in the design criteria package.
- B. Comprehensive design services for approved improvements including development of design plans and construction documents;
- C. Coordinating, applying for and obtaining regulatory permits;
- D. Preconstruction services required, if any, for the construction of selected improvements and associated components;
- E. Development of construction sequencing and project phasing;
- F. Construction to replace and expand two (2) existing natural grass recreational soccer fields with larger artificial turf fields and associated ancillary

- components identified in the design criteria package;
- G. Maintaining operations during construction;
- H. Engineering services during construction to include attending meetings, responding to requests for information (RFI), reviewing submittals, and commissioning services;
- I. Start-up and testing;
- J. Development of Operations and Maintenance (O&M) manuals; and
- K. Training staff in the operations of the selected improvements and associated components.

2.3 Existing Infrastructure

Located adjacent to Cypress Bay High School, Vista Park is a 30-Acre recreational venue that features four (4) Soccer fields, four (4) Baseball / Softball fields, Restroom Facilities, Shaded Playground, Shelters and Picnic Areas. This project is comprised of the replacement and expansion of two (2) natural grass recreational soccer sports fields with two (2) larger artificial turf fields and associated ancillary components. Further details are included as part of the solicitation in Volume 2 – Design Criteria Package.

It shall be the PROPOSER's responsibility to visit the proposed work site(s) and to thoroughly familiarize themselves with the nature and extent of the work to be performed and all local existing site conditions, to make their own estimate of the facilities and difficulties attending the execution of the work; no allowance shall be made by the CITY for the PROPOSER's failure to do so.

PROPOSERS shall note that no guarantee by the CITY is expressed or implied as to the quantity of services, if any, to be procured under this RFQ.

2.4 Licensing and Minimum Qualifications

PROPOSERS must provide the necessary documentation to demonstrate that they meet the following minimum qualifications:

- A. Experience - PROPOSER must be a DESIGN-BUILD FIRM, as defined under Section 287.055(2)(h), Florida Statutes. Which is described generally as a partnership, corporation or other legal entity that is either certified to engage in contracting or certified to practice engineering, as set forth in Florida Statutes. Proposers shall have been in continuous practice for a minimum of the immediate past ten (10) years and shall have completed at least two projects for a governmental agencies with infrastructure similar in scope, size and complexity as this project.
- B. Authorization to do Business - PROPOSER shall have been authorized to do business in the State of Florida for a minimum of the immediate past ten (10) years.
- C. Licenses - PROPOSER shall be licensed to practice engineering or certified to engage in contracting in the State of Florida and must be fully licensed or registered with all required State and/or Local government licenses and certifications.

2.5 Insurance Requirements:

Before performing any work for the CITY, PROPOSER shall procure and maintain, during the life of the Agreement, unless otherwise specified, the insurance coverage as described in the Agreement, set forth in Section 6 of this RFQ.

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SECTION 3
GENERAL CONDITIONS

3.1 RFQ Documents

These RFQ documents constitute the complete set of solicitation specifications and forms. All forms and documents must be executed, sealed and submitted as described in herein. Proposals shall be submitted on the prescribed solicitation forms. Proposals not submitted on the prescribed solicitation forms shall be rejected. By submitting a Proposal, the PROPOSER agrees to be subject to all terms and conditions specified herein. No exception to the terms and conditions in this RFQ and the form of Agreement set forth in Section 6 hereof shall be allowed. Submittal of a response to this RFQ constitutes a binding offer by the PROPOSER. PROPOSER's failure to comply with any provision in this RFQ may result in disqualification, at the sole discretion of the CITY.

3.2 Taxes

The PROPOSER shall not be entitled to the CITY'S tax-exempt benefits.

3.3 Additional Terms and Conditions

No additional terms and conditions submitted by the PROPOSER with the Proposal shall be evaluated or considered. Any and all such additional terms and conditions shall have no force and effect and are inapplicable to this RFQ.

3.4 Interpretations and Inquiries

PROPOSERS shall carefully examine the RFQ documents. Any ambiguities or inconsistencies shall be brought to the attention of the CITY or its agent in writing at least five (5) business days prior to the Submittal Deadline.

Any questions concerning this RFQ shall be submitted in writing to Martha Perez-Garviso, Director of Procurement, at Mperezgarviso@westonfl.org with "RFQ No. 2024-03 for "Design-Build Services Vista Park Artificial Turf Soccer Fields" in the subject at least five (5) business days prior to the Submittal Deadline.

Submission of a Proposal will serve as prima facie evidence that the PROPOSER has examined the form of Agreement set forth in Section 6 hereof and is fully aware of all conditions affecting the provision of services. No person is authorized to give oral interpretations of, or make oral changes to, the RFQ documents; therefore, oral statements will not be binding and should not be relied upon. Any interpretation of, or changes to, the RFQ documents will be made in the form of a written addendum to the RFQ document and will be furnished by the CITY to all PROPOSERS. Only those interpretations of, or changes to, the RFQ document that are made in writing and furnished to the PROPOSERS by the CITY may be relied upon.

3.5 Verbal Agreements

No verbal agreement or conversation with any officer, agent, or employee of the CITY, either before or after execution of the Agreement, shall affect or modify any of the terms or

obligations contained in the Agreement. Any such verbal agreement or conversation shall be considered as unofficial information and in no way binding upon the CITY or the PROPOSER.

3.6 No Contingency Fees

PROPOSER warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for the PROPOSER, to solicit or secure the Agreement, and that it has not paid or agreed to pay any person, company, corporation, individual or firm, other than a bona fide employee working solely for the PROPOSER, any fee, commission, percentage, gift or other consideration contingent upon or resulting from the award or making of the Agreement.

3.7 Independence

On the Form 7 provided in Section 5 of this RFQ, the PROPOSER shall list, and describe any relationships – professional, financial or otherwise – that it may have with the CITY, its elected or appointed officials, its employees or agents or any of its agencies or component units for the past five (5) years, together with a statement explaining why such relationships do not constitute a conflict of interest relative to performing the services sought in this RFQ. Additionally, the PROPOSER shall give the CITY written notice of any other relationships – professional, financial or otherwise – that it enters into with the CITY, its elected or appointed officials, its employees or agents or any of its agencies or component units during the term of the Agreement.

3.8 Disqualification of PROPOSERS

More than one Proposal from an individual, firm, partnership, corporation or association under the same or different names will not be considered. Reasonable grounds for believing that a PROPOSER is involved in more than one Proposal for the same work will be cause for rejection of all Proposals in which such PROPOSERS are believed to be involved.

3.9 Assignment; Non-transferability of Proposal

Proposals shall not be assigned or transferred. A PROPOSER who is, or may be, purchased by or merged with any other corporate entity during any stage of the solicitation process, through to and including awarding of and execution of an Agreement, is subject to having its Proposal disqualified as a result of such transaction.

If, at any time during the solicitation process, filings, notices or like documents are submitted to any regulatory agency concerning the potential acquisition of PROPOSER, or the sale of a controlling interest in the PROPOSER, or any similar transaction, PROPOSER shall immediately disclose such information to CITY. Failure to do so may result in the Proposal being disqualified, at the CITY'S sole discretion. The City Manager shall determine whether a Proposal is to be disqualified in such instances.

3.10 Compliance with Applicable Laws

PROPOSERS are required to comply with all provisions of federal, state, county and local laws, ordinances, rules and regulations that are applicable to the services being offered in this RFQ. Lack of knowledge of the above by the PROPOSER shall in no way be a cause for relief from responsibility or constitute a cognizable defense against the legal effects thereof.

3.11 Familiarity with Laws and Ordinances

The submission of a Proposal for the services requested herein shall be considered as a representation that the PROPOSER is familiar with all federal, state and local laws, ordinances, rules and regulations which affect those engaged or employed in the provision of such services, or equipment used in the provision of such services, or which in any way affects the conduct of the provision of such services; and no plea of misunderstanding will be considered on account of ignorance thereof. If the PROPOSER discovers any provisions in the RFQ documents that are contrary to or inconsistent with any law, ordinance, or regulation, they shall report it to the CITY in writing without delay.

3.12 Advertising

In submitting a Proposal, PROPOSER agrees not to use the results there from as a part of any Advertising or PROPOSER sponsored publicity without the express written approval of the City Manager.

3.13 Execute Agreement

The terms, conditions and provisions in this RFQ shall be included and incorporated in the final Agreement between the CITY and the successful PROPOSER. The order of precedence will be the Agreement, the RFQ Documents, the PROPOSER's response and general law. Any and all legal action necessary to interpret or enforce the Agreement will be governed by the laws of Florida. The venue shall be Broward County, Florida.

3.14 Facilities

The City Manager or designee reserves the right to inspect each PROPOSER's facilities at any reasonable time, during normal working hours, without prior notice to determine that the PROPOSER has a bona fide place of business.

3.15 Withdrawal or Revision of Proposal Prior to and After Opening

A PROPOSER shall not withdraw, modify or correct a Proposal after it has been deposited with the CITY. The withdrawal, modification or correction of a Proposal after it has been submitted with the CITY shall constitute a breach by the PROPOSER. No PROPOSER may withdraw its Proposal within ninety (90) calendar days after the Submittal Deadline.

3.16 CITY'S Exclusive Rights

1. The CITY (through the City Commission, City Manager, Selection Committee or Protest Committee) reserves the right to:
 - A. Reject any or all proposals;
 - B. Waive any informality in a proposal;
 - C. Waive any deficiency or irregularity in the selection process;
 - D. Accept or reject any or all qualifications statements in part or in whole; and
 - E. Request additional information as appropriate.
2. The City Commission reserves the right to:
 - A. Award all or a portion of the services set forth in the RFP/RFQ as determined to be in the best interest of the CITY; and
 - B. Reject any or all Proposals if found by the City Commission not to be in the best interest of the CITY.
 - C. Award an Agreement to one or more than one PROPOSER, make split or multiple awards as determined to be in the best interest of the CITY.
 - D. In the event of a sole proposal, reject the sole proposal.

3.17 Addenda

The CITY reserves the right to issue addenda. Any addenda or other modifications to the RFQ documents shall only be made in writing, and issued by the CITY, at least [] days prior to the Submittal Deadline. Such written addenda or modifications shall be part of the documents and shall be binding upon each PROPOSER. No verbal addenda or modifications shall be allowed, nor shall any PROPOSER rely upon any verbal addenda or modifications in preparing or submitting its proposal.

Each PROPOSER shall acknowledge receipt of such addenda on the Form 6 provided in Section 5 of this RFQ. In the event any PROPOSER fails to acknowledge receipt of such addenda, the Proposal shall nevertheless be construed as though the addenda had been received and acknowledged and the submission of the Proposal shall constitute acknowledgment of receipt of all addenda, whether or not received by the PROPOSER. It is the responsibility of each prospective PROPOSER to verify that the PROPOSER has received all addenda issued before the Submittal Deadline.

3.18 Review of the RFQ Documents

By the submission of a Proposal to provide the services described herein, the PROPOSER certifies that a careful review of the RFQ documents has taken place and that the PROPOSER is fully informed and understands the requirements of the RFQ documents and the quality and quantity of service to be performed.

3.19 Adjustment/Changes/Deviations

No adjustments, changes or deviations to the RFQ will be accepted unless the conditions or specifications of the RFQ expressly so provide.

3.20 RFQ as a Public Record

Upon award recommendation or thirty (30) days after Proposal opening, whichever is earlier, any material submitted in response to this RFQ will become a "public record" and shall be subject to public disclosure consistent with Chapter 119, Florida Statutes ("Public Record Law"). PROPOSERS must claim any applicable exemptions to disclosure provided by law in their response to the RFQ by identifying materials to be protected and must state the reasons why such exclusion from public disclosure is necessary and authorized by law. The CITY reserves the right to make all final determination(s) of the applicability of the Public Records Law and any exemptions provided.

3.21 Subcontracting

No subcontracting, including employee leasing, shall be permitted, except with the prior approval of the City Manager, which shall be in his sole and absolute discretion. A list of all such sub-consultants shall be included in the Proposal. If additional subconsultants are to be used during the term of the Agreement, other than those submitted in the Proposal, a list of subconsultants shall be provided to the City Manager, subject to his approval. Such subconsultants shall be subject to the same contract requirements as the PROPOSER during the term of the Agreement.

3.22 Public Entities Crime

A person or affiliate as defined in Section 287.133, Florida Statutes, who or which has been placed on the convicted vendor list maintained by the Florida Department of Management Services following a conviction for a public entity crime, may not submit a bid on an Agreement to provide any goods or services to the CITY and may not transact business with the CITY in an amount of \$35,000.00 set forth in Section 287.017, Florida Statutes, for Category Two for a period of thirty-six (36) months from the date of being placed on the convicted vendor list.

By submitting a response to this RFQ, PROPOSER certifies that it is qualified under Section 287.133, Florida Statutes, to provide the design-build services set forth in this RFQ No. 2024-03 Design-Build Services Vista Park Artificial Turf Soccer Fields.

3.23 Non-Collusion Affidavit

The PROPOSER shall include the Non-Collusion Affidavit as set forth in Form 4 provided in Section 5 of this RFQ and as described in Section 4 of the RFQ. PROPOSER's failure to include the affidavit shall result in disqualification.

3.24 RFQ Volume 1 and Volume 2.

If there is a conflict or inconsistency between any terms, statements, requirements, or provisions between RFQ Volume 1 and Volume 2, the provision contained in Volume 1 of this RFQ shall prevail and be given effect.

SECTION 4

PROPOSAL PROCESS

4.1 Preparation of Proposals

No PROPOSER shall take exception to the specifications provided herein.

A. Number of Proposals

One (1) complete bound copy of the Proposal, one (1) unbound original Proposal and one digital copy in PDF format on a USB drive, are required to be submitted to the CITY by the Submittal Deadline. Each copy should contain all mandatory and optional information submitted by the PROPOSER. Additional copies may be requested by the CITY at its discretion.

B. Proposal Packaging

The Proposal shall be submitted in a separate plain sealed parcel, box or other secure packaging, marked as the "Proposal". The outside of the sealed package shall clearly indicate the submitting RFQ No. 2024-03 for Design-Build Services Vista Park Artificial Turf Soccer Fields, DESIGN-BUILD FIRM's name, address and the name and telephone number of the DESIGN-BUILD FIRM's specific contact person. The Proposal shall contain one (1) complete bound copy, one (1) unbound original and one (1) digital copy in PDF format on a USB drive and is required to be submitted to the CITY by the Submittal Deadline indicated in Section 4.2. Each copy shall contain all required information in order to be considered responsive.

C. Signatures

All required signatures shall be manual, in blue ink of an authorized representative who has the legal authority to bind the PROPOSER in contractual obligations. The Proposal shall be typed or legibly printed in ink. Use of erasable ink is not permitted. All blank spaces shall be filled in and noted, in ink or typed, with amounts extended and totaled as appropriate. All corrections made by PROPOSER to any part of the Proposal document shall be initialed in ink. Failure to manually sign the appropriate Proposal forms will disqualify the PROPOSER and the Proposal will not be considered.

Proposals by corporations shall be executed in the corporate name by the President or Vice-President (or other corporate officer if accompanied by evidence of authority to sign). The corporate address and state of incorporation shall be shown below the signature.

Proposals by partnerships shall be executed in the partnership name and signed by a partner. His/her title shall appear under his/her signature and the official address of the partnership shall be shown below the signature.

D. Proposal Format

The Proposal shall be typewritten on both sides of 8 ½ x 11 inch white paper. Pages shall be secured by staple, cerlox binding or similar closures. Proposals shall be organized in chapters as described herein. Chapters shall be separated by a tab indicating the chapter number.

All pages are to be consecutively numbered. If a form is provided and there is insufficient space for a response on a form, the response may be continued on a blank page immediately following the form. The additional pages are to be numbered the same as the form with the addition of the letter "a" "b" "c" etc. If a form is provided and additional forms are needed, the form may be copied. The copied pages are to be numbered the same as the form with the addition of the letter "a" "b" "c" etc.

Responses shall be complete and unequivocal. In instances where a response is not required, or is not applicable or material to the Proposal, a response such as "no response is required" or "not applicable" is acceptable.

Proposal Format:

Chapter 1	Cover Sheet Table of Contents Letter of Interest Narrative GSA Standard Form 330 Qualifications Supplemental (Form 1) Litigation History (see Form 1) Criminal Conduct (see Form 1)
Chapter 2	Reference Forms (minimum three agencies) (Form 2)
Chapter 3	Financial Stability & Statements Insurance Statement (Form 3)
Chapter 4	Non-Collusion Certification (Form 4) Drug-free Workplace (Form 5) Acknowledgement of Addenda (Form 6) Independence Affidavit (Form 7) Scrutinized Companies (Form 8) Public Entity Crimes (Form 9) E-Verify Affidavit (Form 10) Certification to Accuracy of Proposal (Form 11)

4.2 Submittal, Receipt and Opening of Proposals

A. All proposals shall be submitted on or before the Submittal Deadline to:

Director of Procurement
City of Weston
17200 Royal Palm Boulevard
Weston, Florida 33326

- B. The official clock at City Hall reception desk shall govern as to time of submittal. Proposals submitted and time stamped on or before the Proposal Submittal Deadline shall be opened publicly at City Hall.
- C. PROPOSERS are reminded that it is the sole responsibility of the PROPOSER to ensure that their proposal is time stamped by the City prior to the Submittal Deadline. Proposals received after the Submittal Deadline shall be returned unopened.

4.3 Sealed Proposal

The Sealed Proposals will be publicly opened at 17200 Royal Palm Boulevard, Weston, Florida 33326, immediately following the Submittal Deadline. The Selection Committee shall examine the documentation submitted in the Proposals at a time thereafter. PROPOSERS shall provide the following information in the Proposal:

CHAPTER 1

A. Cover Sheet

The cover sheet (included herein) shall clearly identify the following:

1. Title of RFQ and RFQ Number.
2. PROPOSER's name.
3. Name of Principal contact.
4. PROPOSER's Information (address, telephone number, email address and fax number).

B. Table of Contents

The table of contents should outline in sequential order the major areas of the submittal, including enclosures. All pages shall be consecutively numbered and correspond to the Table of Contents.

C. Letter of Interest

1. Provide a Letter of Interest. It shall:
 - a. Indicate the firm's commitment to the project.
 - b. Identifies the business entity, its background, main office(s), and office location that will service this contract.
 - c. Acknowledge and confirm the PROPOSER has been in continuous practice for a minimum of the immediate past ten (10) years, from the date that this RFQ is issued, in providing the services requested in this RFQ and is either professionally certified to engage in

contracting or certified to practice engineering, as set forth in Florida Statutes.

2. Letter must be signed by an authorized agent of the firm and indicate the agent's title or authority.
3. Limit the letter to three (3) pages.

D. Narrative

Provide in concise narrative form, the PROPOSER's understanding, of the proposed scope of services and any other information called for by the RFQ. The narrative shall discuss:

1. Methodology and Approach: Provide an understanding of the needs, goals and objectives as they relate to the work contemplated, and the PROPOSER overall approach to accomplishing such work.
2. Discuss the PROPOSER's personnel and Project Team (subconsultants), professional abilities to perform and manage the work.
3. The willingness to meet time and budget requirements.
4. Workload of the firm: Provide information on your firm or team current workload and how this Project will fit into your current and expected workload. For the prime PROPOSER only, list similar current assignments both under contract and those selected but pending execution.

E. GSA Standard Form 330 – Engineer Qualifications

The PROPOSER shall complete GSA Standard Form 330, Architect-Engineer Qualifications (latest edition), to provide information to demonstrate the PROPOSER's competence and professional qualifications. The PROPOSER shall make note of the following:

1. Example Projects are those which best illustrate proposed team's qualifications for the scope of work for this RFQ described herein.

F. PROPOSER's Qualifications-Supplemental Form

PROPOSERs shall complete Form 1 provided in Section 5 of this RFQ. PROPOSERs are permitted to supply additional information that will assist the CITY in understanding the PROPOSER's organization.

G. Litigation History

In Form 1, PROPOSERs shall provide a summary of any litigation or arbitration that the PROPOSER, its parent company or its subsidiaries have been engaged in or are currently engaged in, during the past five (5) years against or involving (1) any public entity in Florida for any amount (2) any private entity for an amount greater than \$100,000. The summary shall state the nature of the litigation or arbitration, a brief description of the case, the outcome or projected outcome, and the monetary amounts involved. The CITY may disqualify any PROPOSER it determines to be excessively litigious.

H. Criminal Conduct

In Form 1, PROPOSER shall provide a summary of any criminal activity, within the last five years of the company, officers, partners, key personnel, subsidiaries, or parent company related to the services described in this RFQ. The CITY may disqualify a PROPOSER on the basis of past criminal convictions when those convictions relate to dishonesty, antitrust violations, or unfair competition.

CHAPTER 2

I. Reference Forms

It is the responsibility of the PROPOSER to provide a minimum of three (3) different government agency references other than the CITY, with infrastructure similar to the Project in scope, size and complexity or greater. Refer to Form 2 for information required and submit as instructed.

PROPOSER shall not utilize as references, any CITY employee, PROPOSER or CITY elected official. PROPOSER's use of such references may result in disqualification, at the discretion of the CITY.

The CITY considers references and performance reviews in the evaluation of PROPOSER's past performance.

CHAPTER 3

J. Financial Stability and Statements

PROPOSERs must demonstrate financial stability. PROPOSERs shall provide a statement of their financial stability, including information as to current or prior bankruptcy proceedings by providing the following:

1. A copy of the most recent audited annual financial statements containing a balance sheet, an income statement, and a statement of cash flows;

OR

2. Non-audited financial statements containing a balance sheet, an income statement, and a statement of cash flows plus a complete federal tax return for the last two (2) years.

Social Security and/or bank account numbers should be redacted on the statements/federal tax returns.

In lieu of submitting the above documentation, PROPOSER may submit alternative documentation that demonstrates their financial ability to perform the services described herein; however, a complete financial evaluation cannot be conducted without the above documentation.

In accordance with Section 32.11 of the City Code, the financial statements submitted in response to this RFQ are (**exempt** or **not exempt**) from public records pursuant to F.S. §119.071(1)(c), as this project (**does** or **does not**) meet the City Code definition of a public works project.

K. Insurance Statement

PROPOSER shall follow the instructions and submit a completed Insurance Statement Form 3.

CHAPTER 4

L. PROPOSER's Non-Collusion Certification

PROPOSER shall complete and execute the Non-Collusion Affidavit of PROPOSER (Form 4 provided in Section 5 of this RFQ).

M. Drug-Free Workplace

PROPOSER shall certify that it has implemented a drug-free workplace program in accordance with Section 287.087, Florida Statutes. In order to receive consideration, a signed certification of compliance (Form 5 provided in Section 5 of this RFQ), shall be submitted with the RFQ response.

N. Addenda

PROPOSER shall complete and sign the Acknowledgment of Addenda (Form 6 provided in Section 5 of this RFQ) and include it in the Proposal in order to have the Proposal considered. In the event any PROPOSER fails to acknowledge receipt of such addenda, his/her Proposal shall nevertheless be construed as though the addenda had been received and acknowledged and the submission of his/her Proposal shall constitute acknowledgment of receipt of all addenda, whether or not received by him/her.

O. Independence Affidavit

PROPOSER shall list and describe its relationships with the CITY in accordance with Section 3.7 of the RFQ (Form 7 provided in Section 5 of this RFQ).

P. Scrutinized Companies

PROPOSER shall follow the instructions and submit a completed Scrutinized Companies Form 8. See Section 4.8 for further information on Scrutinized Companies.

Q. Public Entity Crimes

PROPOSER shall follow the instructions and submit a completed Public Entity Crimes Form 9.

R. E-Verify Affidavit

PROPOSER shall follow the instructions and submit a completed E-Verify Affidavit Form 10. See Section 4.11 for further information on E-Verify Affidavit.

S. Certification to Accuracy of Proposal

PROPOSER shall certify and attest, by executing Form 11 provided in Section 5 of this RFQ, that all Forms, Affidavits and documents related thereto that it has enclosed in the Proposal in support of its Proposal are true and accurate. Failure by the PROPOSER to attest to the truth and accuracy of such Forms, Affidavits and documents shall result in the Proposal being deemed non-responsive and such Proposal will not be considered.

4.4 Qualification Evaluation

The Selection Committee shall examine the documentation submitted in the Proposal to determine the responsiveness of each PROPOSER and for compliance with the required minimum qualifications. Failure to provide the required information may disqualify any such Proposal as non-responsive and such Proposal may not be considered. The Selection Committee may disqualify any PROPOSERS that make exaggerated or false statements.

The evaluation of Proposals and the determination of conformity and acceptability shall be the sole responsibility of the Selection Committee. Such determination shall be based on information furnished by the PROPOSERS, as well as other information reasonably available to the CITY.

The Selection Committee may make such investigations as it deems necessary to determine the ability of the PROPOSER to perform the services and the PROPOSER shall furnish the CITY all such information for this purpose as the CITY may request before and during the solicitation period. The Selection Committee reserves the right to make additional inquiries, interview some or all PROPOSERS, make site visits, obtain credit reports, or any other action it deems necessary to fairly evaluate all PROPOSERS. The Selection Committee may at its sole discretion reject a PROPOSER or qualify a PROPOSER.

Upon review of the qualifications, the Proposer will be evaluated and ranked. The Selection Committee may short list and rank Proposer and may interview these firms for final ranking and recommendation.

PROPOSER's social, political, or ideological interests shall not be considered when determining responsiveness and/or responsibility of bid submittal.

4.5 Responsiveness

The factors to be considered in determining the responsiveness of each PROPOSER include but are not limited to the following:

- A. Completion, accuracy and submission of all required documentation.
- B. Compliance with all requirements of the RFQ, including adherence to all RFQ instructions.
- C. Consistency of the offered goods or services as set forth in the Agreement.
- D. Accuracy of mathematical calculations.

4.6 Responsibility

The factors to be considered in determining the responsibility of a PROPOSER shall include but not be limited to the following:

- A. PROPOSERs past experience and performance.
- B. Financial ability to perform the services described in the Agreement. Proposers must demonstrate financial stability. Proposers shall provide a statement of their financial stability, including information as to current or prior bankruptcy proceedings by providing the following:
 - 1. A copy of the most recent audited annual financial statements containing a balance sheet, an income statement, and a statement of cash flows;

OR

- 2. Non-audited financial statements containing a balance sheet, an income statement, and a statement of cash flows plus a complete federal tax return for the last two (2) years.

Social Security and/or bank account numbers should be redacted on the statements/federal tax returns.

In lieu of submitting the above documentation, Proposer may submit alternative documentation that demonstrates their financial ability to perform the services described herein; however, a complete financial evaluation cannot be conducted without the above documentation.

- C. The financial statements requested are developed into nine financial ratios which include the following:
 - 1. Liquidity - measures a business's ability to cover its obligations, without having to borrow or invest money in the business.

2. Working Capital - measures liquid assets that provide a safety cushion to creditors.
3. Solvency - assesses a company's ability to meet its long-term obligations and therefore remain solvent and avoid bankruptcy.
4. Gross Margin - indicates the percentage of sales (revenue) dollars available for expenses and profit after the cost of materials is deducted from the sales (revenue).
5. Free Cash Flow - tells how much cash is left over from operations after a company pays for its capital expenditures.
6. Account Receivables – as a percentage of current assets, which will provide information about assets not yet received and therefore unavailable at the present time to be used as resources.
7. Receivables to Current Assets - receivables as a percentage of current assets that would reveal the size of receivables in current assets and the opportunity cost associated with it.
8. Long Term Debt - measurements representing the percentage of a corporation's assets that are financed with loans and financial obligations lasting more than one year.
9. Cash Ratio - an indicator of a company's liquidity by measuring the amount of cash, cash equivalents or invested funds there are in current assets to cover current liabilities.

****PROPOSERS will only be compared to other firms that submit a proposal, to determine *relative* positions of financial ability and stability. ****

4.7 Evaluation

This solicitation includes a two-step process consisting of the evaluation of PROPOSER's qualifications and experience for ranking prior to negotiating a Guaranteed Maximum Price ("GMP") in the form set forth in Exhibit B – Fee Schedule of the Form Agreement provided in Section 6 herein or a mutually agreed Fee Schedule, and guaranteed completion date.

The CITY intends to award a contract to the most qualified, highest ranked firm whose proposal is determined to be the most advantageous to the CITY and for a negotiated GMP which the CITY determines is fair, reasonable and competitive.

- A. In the first step of the evaluation process the Selection Committee shall convene at a publicly noticed meeting and collectively discuss and review the Proposals. Each member of the Selection Committee will evaluate and rank each Proposal in each of the categories listed below and compute a final ranking. The Director of Procurement will tally the final rankings and announce the final total ranking. A sample of the ranking forms used by the Selection Committee is included in Chapter

5 (Form 12) of this RFQ. Proposals will be evaluated and ranked based on, the following categories, (which shall be weighted equally):

1. Location of PROPOSER's firm: Years in business, office location and licenses.
2. Qualification of PROPOSER's Project Team: Describe the qualifications and relevant experience of the Design-Build Team including proposed key professional project team members, Subconsultants/Subcontractors, joint ventures, including their pertinent training, skill and experience. PROPOSER approach and methodology to the scope of services.
3. Past Performance: PROPOSER Firm's experience with providing design/build services for government agencies with infrastructure similar in scope, size and complexity or greater, than those owned and managed by the City of Weston.
4. Workload: The PROPOSER's recent, current, and projected workloads and willingness to meet time and budget requirements.
5. PROPOSER's financial ability to perform the services described in this RFQ.
6. Whether PROPOSER is a certified minority business enterprise.¹

In the event of a tie, the CITY shall break the tie by drawing lots at a publicly noticed meeting.

Depending on the number of Proposals submitted, the Selection Committee may choose to short-list at minimum of at least three (3) Proposers, and then may interview and rank the short-listed Proposers. If the process proceeds to a second round of the short listed, the rankings in the prior round shall not carry forward. The Selection Committee shall begin a new ranking of short-listed Proposers.

- B. In the second phase, the Selection Committee shall again convene at a publicly noticed meeting to interview the short-listed firms. The shortlisted firms will be invited to make presentations. Each member of the Selection Committee will evaluate and rank the shortlisted firm in each of the categories listed in this section.
1. Location of Proposer's firm: Years in business, office location and licenses.
 2. Qualification of PROPOSER's Project Team: Describe the qualifications and relevant experience of the Design-Build Team including proposed key professional project team members, Subconsultants/Subcontractors, joint

1

This factor is included pursuant to Section 287.055, Florida Statutes. However, Broward County no longer certifies minority owned businesses because the state law provision governing such programs has been invalidated by a federal district court. *Florida A.G.C. Council, Inc. v. Florida*, 303 F. Supp. 2d 1307, 1316 (N.D. Fla. 2004). In addition, the CITY does not certify minority owned businesses because it has not engaged in past discrimination. See *Richmond v. J.A. Croson Co.*, 488 U.S. 469 (1989); *Engineering Consultants Association of South Fla. v. Metro. Dade County*, 122 F.3d 895, 906-910 (11th Cir. 1997).

ventures, including their pertinent training, skill and experience. PROPOSER approach and methodology to the scope of services.

3. Past Performance: PROPOSER Firm's experience with providing design/build services for government agencies with infrastructure similar in scope, size and complexity or greater, than those owned and managed by the City of Weston.
4. Workload: PROPOER'S recent, current, and projected workloads and willingness to meet time and budget requirements.
5. The volume of work previously awarded to Proposer. (Firms with no current agreements for professional engineering services with the CITY shall have a score/rank of 1. Firms with existing agreements continuing for professional engineering services agreements with the CITY shall have a score/rank of 2.
6. Whether PROPOSER is a certified minority business enterprise.¹

Sample ranking form used by the Selection Committee is included in this RFQ, as Form 12. Based on the final rankings resulting from the process described above, the Selection Committee will make a recommendation of its final rankings to the City Commission.

Subsequently, the City Commission may ratify or alter the Selection Committee's rankings, and the City Commission shall be requested to adopt a resolution authorizing the appropriate City Officials to negotiate a GMP with the top ranked PROPOSER and execute an agreement in the form presented in Section 6 to this RFQ (the "Agreement"). If the top ranked PROPOSER and the City Officials unable to negotiate a satisfactory GMP which the City determines to be fair, competitive, and reasonable and execute an Agreement, then the next ranked PROPOSER will be selected to negotiate a GMP and execute an Agreement. And so on, until an Agreement is executed.

4.8 Protest Procedures

- A. Standing parties that are not actual PROPOSERS, including, but not limited to, subconsultants, material and labor suppliers, manufacturers and their representatives, shall not have standing to protest or appeal any determination made pursuant to this Section.
- B. Procedure
 1. Protest of Failure to qualify upon notification by the CITY that a PROPOSER is deemed non-responsive and/or non-responsible, the PROPOSER who is deemed non-responsive and/or non-responsible may file a protest with the

¹ This factor is included pursuant to Section 287.055, Florida Statutes. However, Broward County no longer certifies minority owned businesses because the state law provision governing such programs has been invalidated by a federal district court. *Florida A.G.C. Council, Inc. v. Florida*, 303 F. Supp. 2d 1307, 1316 (N.D. Fla. 2004). In addition, the CITY does not certify minority owned businesses because it has not engaged in past discrimination. See *Richmond v. J.A. Croson Co.*, 488 U.S. 469 (1989); *Engineering Consultants Association of South Fla. v. Metro. Dade County*, 122 F.3d 895, 906-910 (11th Cir. 1997).

City Clerk by close of business on the third Business Day after notification (excluding the day of notification) or any right to protest is forfeited. (City Hall hours are as follows: Monday-Thursday from 8:00 am to 5:30 pm and Friday from 8:00 am to 3:00 pm.)

2. Protest of Award of Agreement: After a Notice of Intent to Award an Agreement is posted, any PROPOSER who is aggrieved in connection with the pending award of the agreement or any element of the process leading to the award of the agreement may file a protest with the City Clerk by close of business on the third Business Day after posting (excluding the day of posting) or any right to protest is forfeited. A Notice of Intent to Reject all Proposals is subject to the protest procedure.
3. Content and filing of the protest shall be in writing, shall identify the name and address of the protester, and shall include a factual summary of, and the basis for, the protest. Filing shall be considered complete when the protest and the Protest Bond are received by the City Clerk. The official clock at the City Hall reception desk shall govern.
4. Protest Bond: Any PROPOSER filing a protest shall simultaneously provide a Protest Bond to the CITY in the amount of ten thousand dollars (\$10,000). If the protest is decided in the protester's favor, the entire Protest Bond shall be returned to the protester. If the protest is not decided in the protester's favor, the Protest Bond shall be forfeited to the CITY. The Protest Bond shall be in the form of a cashier's check.
5. Protest Committee: The Protest Committee shall review all protests. The City Manager shall appoint the members of the Protest Committee. No member of the City Commission shall serve on the Protest Committee. The City Attorney or designee shall serve as counsel to the Committee. The meeting of the Protest Committee shall be open to the public and all of the actual PROPOSERS shall be notified of the date, time and place of the meeting. If the Protest Committee determines that the protest has merit, the City Manager shall direct that all appropriate steps be taken. If the Protest Committee denies the protest, the protester may appeal to the City Commission. All of the actual PROPOSERS shall be notified of the determination by the Protest Committee. The Protest Committee shall terminate upon the award of the contract, or such other time as determined by the City Commission.
6. Stay of award of Agreement or RFQ Process: In the event of a timely protest, the City Manager shall stay the award of the Agreement or the RFQ process unless the City Manager determines that the award of the Agreement without delay or the continuation of the RFQ process is necessary to protect any substantial interest of the CITY. The continuation of the RFQ process or award under these circumstances shall not preempt or otherwise affect the protest.
7. Appeals to City Commission: Any actual PROPOSER who is aggrieved by a determination of the Protest Committee may appeal the determination to the

City Commission by filing an appeal with the City Clerk by close of business on the third Business Day after the protester has been notified (excluding the day of notification) of the determination by the Protest Committee. The appeal shall be in writing and shall include a factual summary of, and the basis for, the appeal. Filing of an appeal shall be considered complete when the appeal is received by the City Clerk.

8. Failure to file protest Any actual PROPOSER that does not formally protest or appeal in accordance with this Section shall not have standing to protest the City Commission's award.

4.9 Prohibitions

- A. Communication with CITY staff prohibited. PROPOSER is prohibited from communicating with any staff/CITY CONSULTANT during the selection process except as noted herein.

1. Cone of Silence

- a. Pursuant to Section 32.10 of the City Code, there shall be no communication related to this RFQ between PROPOSER, including any lobbyist or any other Person on behalf of PROPOSER, and any member of the City Commission, or any member of the Selection Committee or Protest Committee (starting from the appointment of that Protest Committee Member), if any.
- b. The cone of silence shall not apply to written or oral communications with legal counsel for the CITY.
- c. This Section shall not prohibit any person from:
 - I. Making public presentations to the Selection Committee or Protest Committee, or to the City Commission, during any public meeting related to this RFQ;
 - II. Engaging in contract negotiations at a meeting of the Selection Committee, or with the City Commission during a public meeting; or
 - III. Communicating in writing with the person designated in this RFQ as the contact person for clarification or information related to this RFQ. The written communication, including any response thereto, shall be provided to any PROPOSER that has submitted a proposal.
- d. A cone of silence shall begin when first publicly noticed and shall terminate upon execution of the Agreement, a decision by the City Commission to reject all proposals, or the taking of other action that ends this RFQ solicitation.

- e. Any action in violation of this Section shall be cause for disqualification of the DESIGN-BUILD FIRM. The determination of a violation shall be made by the City Commission.

4.10 Scrutinized Companies

Pursuant to Section 287.135, Florida Statutes, a PROPOSER is ineligible to, and may not submit a Proposal for, or enter into or renew a contract with CITY for goods or services if at the time of submitting a Proposal for a new contract or renewal of an existing contract:

- A. for any contract amount, if the PROPOSER is on the Scrutinized Companies that Boycott Israel List, created pursuant to Section 215.4725, Florida Statutes, or is engaged in a boycott of Israel;
- B. if \$1 million or more and the PROPOSER is on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, created pursuant to Section 215.473, Florida Statutes; or
- C. if \$1 million or more and the PROPOSER is engaged in business operations in Cuba or Syria.

4.11 E-Verify Affidavit

In accordance with Section 448.095, Florida Statutes, the CITY requires all CONTRACTORS doing business with the CITY to register with and use the E-Verify system to verify the work authorization status of all newly hired employees. The CITY will not enter into a contract unless each party to the contract registers with and uses the E-Verify system. The contracting entity must provide of its proof of enrollment in E-Verify. For instructions on how to provide proof of the contracting entity's participation/enrollment in E-Verify, please visit: <https://www.e-verify.gov/faq/how-do-i-provide-proof-of-my-participationenrollment-in-e-verify>.

By entering into the Agreement, the CONTRACTOR acknowledges that it has read Section 448.095, Florida Statutes; will comply with the E-Verify requirements imposed by Section 448.095, Florida Statutes, including but not limited to obtaining E-Verify affidavits from subcontractors; and has executed the required affidavit attached hereto and incorporated herein.

4.12 Foreign Gifts and Contracts

Pursuant to Section 286.101, Florida Statutes, any bidder or PROPOSER shall disclose in its response to the CITY as well as in any manner required by Section 286.101, Florida Statutes, any current or prior contract with, or grant or gift received from, a Foreign Country of Concern, with a value of \$50,000 or more, received or in force at any time during the previous five years. A "Foreign Country of Concern" shall mean the People's Republic of China, the Russian Federation, the Islamic Republic of Iran, the Democratic People's Republic of Korea, the Republic of Cuba, the Venezuelan regime of Nicolas Maduro, or the Syrian Arab Republic, including any agency of or any other entity under significant control of such country. Any PROPOSER/bidder who fails to make such disclosure shall be

disqualified and also may be liable for a civil violation with a fine of \$5,000 for a first violation or \$10,000 for any subsequent violation.

4.13 Examination of Conditions

It shall be the PROPOSER's responsibility to visit the proposed work site(s) and to thoroughly familiarize themselves with the nature and extent of the work to be performed and all local existing site conditions, to make their own estimate of the facilities and difficulties attending the execution of the work; no allowance shall be made by the CITY for the PROPOSER's failure to do so.

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SECTION 5 – QUALIFICATION FORMS

The forms located in this section of the RFQ shall be included in the Sealed Proposal. Forms not completed in full may result in disqualification.

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COVER SHEET

City of Weston

Request for Qualifications
RFQ No. 2024-03
DESIGN BUILD SERVICES
VISTA PARK ARTIFICIAL TURF SOCCER FIELDS

Proposal Submitted by:

Name of Design-Build Firm		
Name of Principal Contact		
Address		
City	State	Zip Code
Phone Number	Fax Number	
Email Address		

Signature of PROPOSER

Date

Print Name

Title

FORM 1

PROPOSER'S QUALIFICATIONS-SUPPLEMENTAL FORM

1. Provide names of partners or officers as appropriate and indicate if the individual has the authority to sign in name of PROPOSER. Provide proof of the ability of the individuals so named to legally bind the PROPOSER.

Name	Address	Title
_____	_____	_____
_____	_____	_____
_____	_____	_____

If a corporation, in what state incorporated: _____

Date Incorporated: _____
Month Day Year

If a Joint Venture or Partnership, date of Agreement: _____

Name and address of all partners (state whether general or limited partnership):

If other than a corporation or partnership, describe organization and name of principals:

2. Indicate the number of years the PROPOSER has had successful experience in providing professional Design-Build services for governmental agencies with infrastructure similar to the Project in scope, size and complexity or greater.

Years: _____

3. County or Municipal Business Tax Receipt No.:

(Attach Copy)

Social Security or Federal ID No.

4. List states and categories in which your organization is legally qualified to do business. Indicate registration or license numbers, if applicable. List states in which partnership or trade name is filed.

5. Have you ever failed to complete any work awarded to you? Yes _____ No _____
If so, note when, where and why.

6. Within the last five years, has any officer or partner of your organization ever been an officer or partner of another organization that failed to complete an Agreement?

Yes ___ No ___ If yes, attach a separate sheet of explanation.

7. Within the last five years, have you ever had a performance, payment or bid bond called?

Yes ___ No ___ If yes, attach a separate sheet of explanation.

1. Have you, any officer or partner of your organization, or the organization been involved in any litigation or arbitration against the CITY?

Yes ___ No ___ If yes, attach a separate sheet of explanation.

2. Within the last five years, have you, any officer or partner of your organization, or the organization or parent company or its subsidiaries been involved in any litigation or arbitration against any other Florida public entity?

Yes ___ No ___ If yes, attach a separate sheet of explanation.

3. Within the last five years, have you, any officer or partner of your organization, or the organization or parent company or its subsidiaries been involved in any litigation or arbitration against any private entity for an amount greater than \$100,000?
- Yes ___ No ___ If yes, attach a separate sheet of explanation.
4. Has your organization or any of its partners, officers, or key personnel, or its subsidiaries or parent company been charged or indicted for any criminal activity within the last five years?
- Yes ___ No ___ If yes, attach a separate sheet of explanation.
5. Has your organization or any of its partners, officers, or key personnel, or its subsidiaries or parent company been convicted and/or fined for any criminal activity within the last five years?
- Yes ___ No ___ If yes, attach a separate sheet of explanation.
6. Within the last five years, have you, any officer or partner of your organization, or the organization been investigated by any local, state, or federal law enforcement agency, criminal justice agency or inspector general office?
- Yes ___ No ___ If yes, attach a separate sheet of explanation.
7. Within the last five years, have you, any officer or partner of your organization, or the organization communicated with any local, state, or federal law enforcement agency, criminal justice agency or inspector general office relating to goods or services provided or performed for any governmental entity?
- Yes ___ No ___ If yes, attach a separate sheet of explanation.
8. Within the last five years, have there been any reports or audits relating to you, any officer or partner of your organization, or the organization issued by any local, state, or federal law enforcement agency, criminal justice agency or inspector general office.
- Yes ___ No ___ If yes, attach a separate sheet of explanation.
9. Within the last five years, have you, any officer or partner of your organization, or the organization failed to disclose or made misrepresentations to any governmental entity regarding conflicts of interest or potential or apparent conflicts of interest.
- Yes ___ No ___ If yes, attach a separate sheet of explanation.
10. Within the last five years, have you, any officer or partner of your organization or the organization entered into or are currently in a contract with, or received a grant or gift from, a Foreign Country of Concern, with a value of \$50,000 or more. A "Foreign Country of Concern" means the People's Republic of China, the Russian Federation, the Islamic Republic of Iran, the Democratic People's Republic of Korea, the Republic of Cuba, the Venezuelan regime of Nicolas Maduro, or the Syrian Arab Republic, including any agency

of or any other entity under significant control of such country.

Yes _____ No _____ If yes, attach a separate sheet of explanation.

11. Are you a certified minority business enterprise?

Yes _____ No _____ If yes, attach proof.

Signature (Blue Ink Only)

Date

Print Name

Title

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FORM 2
CITY OF WESTON
PROPOSER REFERENCE FORM

PROPOSERS shall provide at least three references for similar work performed to show evidence of qualifications and previous experience. **This form SHALL be completed and signed by each of the PROPOSER's Reference.** (A fillable PDF of this form is available under "Selected Standard Bid Forms" at <https://www.westonfl.org/government/procurement>)

Solicitation Title: _____

Name of PROPOSER: _____

Bid/RFP/RFQ No: _____ Opening Date: _____

The above-mentioned company/firm has listed you as a project reference for the City of Weston solicitation cited above. Please provide the reference information as requested below.

1. Name of Reference (Person): _____

2. Name of Firm/Agency: _____

3. Title/Position: _____

4. Email Address: _____ Phone #: _____

5. What type of work or service has the PROPOSER performed for you or your agency and when?
Description of Work/Title of Project

	Approximate Completion (Month/Year)
--	--

6. What was the approximate contract value of this work? _____

7. Was the work generally completed on-time and within budget?

Yes No

8. Did the PROPOSER meet the expectations and needs of the project? Yes No

9. Was the PROPOSER generally responsive to your requests? Yes No

10. Is there anything else you wish to let us know about this PROPOSER?

Signature of Reference: _____ Date: _____

FORM 3
INSURANCE STATEMENT

I have reviewed the insurance coverage requirements of the RFQ. I understand that within fourteen (14) calendar days of the date of the Notice of Award by the City Commission, the CONTRACTOR shall furnish to the CITY proof of insurance, in accordance with Section 2.4 stipulated in the Agreement document.

_____ Signature (Blue Ink Only)	_____ Date
_____ Print Name	_____ Title

[THIS SPACE INTENTIONALLY LEFT BLANK]

FORM 4
NON-COLLUSION AFFIDAVIT

The undersigned individual, being duly sworn, deposes and says that:

1. He/She is _____ of _____, the PROPOSER that has submitted the attached Proposal;
2. He/She is fully informed respecting the preparation and contents of the attached Proposal and of all pertinent circumstances respecting such Proposal;
3. Such Proposal is genuine and is not a collusive or sham Proposal;
4. Neither said PROPOSER nor any of its officers, partners, owners, agents, representatives, employees, or parties in interest, including this affiant, has in any way colluded, connived, or agreed, directly or indirectly, with any other PROPOSER, firm or person to submit a collusive or sham proposal in connection with the Agreement for which the attached Proposal has been submitted or to refrain from proposing in connection with such Agreement, or has in any manner, directly or indirectly, sought by agreement of collusion or communication of conference with any other PROPOSER, firm, or person to fix the price or prices in the attached RFQ, or of any other PROPOSER or to fix any overhead, profit or cost element of the Proposal or the response of any other PROPOSER, or to secure through any collusion, connivance, or unlawful agreement any advantage against the City of Weston, Florida, or any person interested in the proposed Agreement; and
5. The response to the attached RFQ is fair and proper and is not tainted by any collusion, conspiracy, connivance, or unlawful agreement on the part of the PROPOSER or any of its agents, representatives, owners, employees, or parties in interest, including this affiant.

Signature (Blue Ink Only)

Date

Print Name

Title

FORM 5
DRUG-FREE WORKPLACE

The undersigned vendor (firm) in accordance with Chapter 287.087, Florida Statutes, hereby certifies that _____ does:

(Name of Company)

1. Publish a statement notifying employees that the unlawful manufacturing, distribution, dispensing, possession, or use of a controlled substance is prohibited in the workplace and specifying the actions that will be taken against employees for violations of such prohibition.
2. Inform employees about the dangers of drug abuse in the work place, the business's policy of maintaining a drug-free workplace, any available drug counseling, rehabilitation, and employee assistance programs, and the penalties that may be imposed upon employees for drug abuse violations.
3. Give each employee engaged in providing the contractual services that are under bid a copy of the statement specified in subsection (1).
4. In the statement specified in subsection (1), notify the employee that, as a condition of working on the contractual services that are under bid, the employee will abide by the terms of the statement and will notify the employer of any conviction of, or plea of guilty or nolo contendere to, any violation of Chapter 893 or of any controlled substance law of the United States or any state, for a violation occurring in the workplace no later than five (5) days after such conviction.
5. Impose a sanction on, or require the satisfactory participation in a drug abuse assistance or rehabilitation program if such is available in the employee's community, by any employee who is so convicted.
6. Make a good faith effort to continue to maintain a drug-free workplace through implementation of this section.

As the person authorized to sign the statement, I certify that this PROPOSER complies fully with the above requirements.

Signature (Blue Ink Only)

Date

Print Name

Title

FORM 6
ACKNOWLEDGMENT OF ADDENDA

The PROPOSER hereby acknowledges the receipt of the following addenda issued by the CITY and incorporated into and made part of this RFQ. In the event the PROPOSER fails to include any such addenda in the table below, submission of this form shall constitute acknowledgment of receipt of all addenda, whether or not received by him/her.

ADDENDUM NUMBER	DATE RECEIVED	PRINT NAME	TITLE	SIGNATURE (BLUE INK ONLY)

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FORM 7
INDEPENDENCE AFFIDAVIT

The undersigned individual, being duly sworn, deposes and says that:

I am _____ of _____, the PROPOSER that has submitted the attached proposal;

I hereby certify to the best of my knowledge that neither I nor any of those persons residing in my household have or have had during the past five years, any relationships (professional, financial, familial or otherwise) with the City (or any of its districts), its elected or appointed officials, its employees or agents, or any member or alternate member of the Selection Committee.

A "relationship" for the purpose of this affidavit shall include but not be limited to employer/employee, PROPOSER, subconsultant, associate, officer, partnership, joint venture, ownership greater than one percent, landlord/tenant, or creditor/debtor, gift donor/recipient (in excess of \$100.00), past or on-going personal relationships, or joint involvement with charitable/voluntary activities. **Relationship includes having a prior or current contract with the City.**

Except as set forth below, I hereby certify to the best of my knowledge that neither I nor any of those persons residing in my household have received any promise of compensation, remuneration, gift, discount, or other gratuity in exchange for my proposal.

I understand and agree that I shall give the City written notice of any other relationships (as defined above) that I enter into with the City (or any of its districts), its elected or appointed officials, its employees or agents, or any member or alternate member of the Selection Committee during the period of the Agreement.

I set forth below any exceptions to the aforementioned (if none, write "None"):

Signature (Blue Ink Only)

Date

Print Name

Title

FORM 8
SCRUTINIZED COMPANIES

The undersigned PROPOSER in accordance with Section 287.135, Florida Statutes, hereby certifies that:

PROPOSER is not participating in a boycott of Israel;

PROPOSER is not on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List;

PROPOSER does not have business operations in Cuba or Syria.

Signature (Blue Ink Only)

Date

Print Name

Title

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FORM 9
PUBLIC ENTITY CRIMES

Sworn Statement Under §287.133(3)(a), Florida Statutes

(This form must be signed in the presence of a notary public or other officer authorized to administer oaths.)

1. This sworn statement is submitted with Bid, Proposal or contract No. _____

2. This sworn statement is submitted by: _____
(name of entity submitting sworn statement)

whose business address is: _____

Federal Identification Number
(FEIN) is: _____
(if applicable)

Social Security Number: _____
(if the entity has no FEIN, include the Social Security Number of the individual signing this sworn statement)

3. My name is: _____
(print name of individual signing this document)

and my relationship to the entity is: _____

4. I understand that a "public entity crime" as defined in §287.133(1)(g), Florida Statutes means a violation of any state or federal law by a person with respect to and directly related to the transaction of business with any public entity or with an agency or political subdivision of any other state or with the United states, including, but not limited to, any bid or contract for goods or services to be provided to any public entity or an agency or political subdivision of any other state or of the United States and involving antitrust, fraud, theft, bribery, collusion, racketeering, conspiracy, or material misrepresentation.

5. I understand that a "convicted" or "conviction" as defined in §287.133(1)(b), Florida Statutes, means a finding of guilt of a conviction of a public entity crime, with or without an adjudication of guilt, in any federal or state trial court of record relating to charges brought by indictment or information after July 1, 1989, as a result of a jury verdict, non-jury trial, or entry of a plea of guilty or nolo contendere.

6. I understand that an "affiliate" as defined in §287.133(1)(a), Florida Statutes means:
(a) A predecessor or successor of a person or a corporation convicted of a public entity crime; or

FORM 9
PUBLIC ENTITY CRIMES(Continued)

- (b) An entity under the control of any natural person who is active in the management of the entity and who has been convicted of a public entity crime. The term "affiliate" includes those officers, directors, executives, partners, share holders, employees, members, and agents who are active in the management of an affiliate. The ownership by one person of shares constituting a controlling interest in another person, or a pooling of equipment or income among persons when not for fair market value under an arm's length agreement, shall be a prima-facie case that one person controls another person. A person who knowingly enters into a joint venture with a person who has been convicted of a public entity crime in Florida during the preceding 36 months shall be considered an affiliate.
7. I understand that a "person" as defined in §287.133(1)(e), Florida Statutes, means any natural person or entity organized under the laws of any state or of the United States with the legal power to enter into a binding contract and which binds or applies to bids on contracts for the provision of goods or services let by a public entity, or which otherwise transacts or applies to transact business with a public entity. The term "person" includes those officers, directors, executives, partners, shareholders, employees, members, and agents who are active in management of an entity.
8. Based on the information and belief, the statement that I have marked below is true in relation to the entity submitting this sworn statement. (Please indicate which statement applies)
- a. _____ Neither the entity submitting the sworn statement, nor any officers, directors, executives, partners, shareholders, employees, members or agents who are active in management of the entity nor any affiliate of the entity have been charged with and convicted of a public entity crime subsequent to July 1, 1989.
- b. _____ The entity submitting this sworn statement, or one or more of the officers, directors, executives, partners, shareholders, employees, members or agents who are active in management of the entity or an affiliate of the entity has been charged with and convicted of a public entity crime subsequent to July 1, 1989 and (Please indicate which additional statement applies)
1. _____ There has been a proceeding concerning the conviction before a hearing officer of the State of Florida, Division of Administrative Hearings. The final order entered by the hearing officer did not place the person or affiliate on the convicted vendor list. (Please attach a copy of the final order)

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FORM 9
PUBLIC ENTITY CRIMES (Continued)

2. _____ The person or affiliate was placed on the convicted list. There has been a subsequent proceeding before a hearing officer of the State of Florida, Division of Administrative Hearings. The final order entered by the hearing officer determined that it was in the public interest to remove the person or affiliate from the convicted vendor list. (Please attach a copy of the final order)

3. _____ The person or affiliate has not been placed on the convicted vendor list. (Please describe any action taken by or pending with the Department of General Services)

Signature (Blue Ink Only)	Date
Print Name	Title

[THIS SPACE INTENTIONALLY LEFT BLANK]

FORM 10
E-VERIFY AFFIDAVIT

In accordance with Section 448.095, Florida Statutes, the CITY requires all CONTRACTORs doing business with the CITY to register with and use the E-Verify system to verify the work authorization status of all newly hired employees. The CITY will not enter into a contract unless each party to the contract registers with and uses the E-Verify system.

The contracting entity must provide of its proof of enrollment in E-Verify. For instructions on how to provide proof of the contracting entity's participation/enrollment in E-Verify, please visit: <https://www.e-verify.gov/faq/how-do-i-provide-proof-of-my-participationenrollment-in-e-verify>.

By signing below, the contracting entity acknowledges that it has read Section 448.095, Florida Statutes and will comply with the E-Verify requirements imposed by it, including but not limited to obtaining E-Verify affidavits from subcontractors.

Check here to confirm proof of enrollment in E-Verify has been attached to this Affidavit.

_____ Signature (Blue Ink Only)	_____ Date
_____ Print Name	_____ Title

[THIS SPACE INTENTIONALLY LEFT BLANK]

FORM 11
CERTIFICATION TO ACCURACY OF PROPOSAL

PROPOSER, by executing this CERTIFICATION TO ACCURACY OF PROPOSAL Form, hereby certifies and attests that all Forms, Affidavits and documents related thereto that it has enclosed in the Proposal in support of its Proposal are true and accurate. Failure by the PROPOSER to attest to the truth and accuracy of such Forms, Affidavits and documents shall result in the Proposal being deemed non-responsive and such Proposal will not be considered.

Before me, the undersigned authority, on this day personally appeared _____, who, upon being duly sworn, deposes and says:

1. I am _____ of _____, the PROPOSER that has submitted the attached Proposal;
2. I _____ certify that I am authorized to sign this solicitation response on behalf of the PROPOSER as indicated in Form 1 as to Corporate Principal, designation letter by Director/Corporate Officer, or other business authorization to bind on behalf of the PROPOSER.
3. I am fully informed respecting the preparation and contents of the attached Proposal and of all Forms, Affidavits and documents submitted in support of such Proposal;
4. I attest that all forms, affidavits, certifications, documents, statements, oral, written or otherwise submitted in support of this Proposal and included in this Proposal are true and accurate;
5. No information that should have been included in such forms, affidavits, certification and documents has been omitted; and
6. No information that is included in such Forms, Affidavits or documents is false or misleading.
7. I acknowledge that untruthful and incorrect statements made in support of the Vendor's response may be used by the City as a basis for rejection, rescission of the award, or termination of the Agreement, and that the City's rights and remedies set forth herein are not exclusive and are in addition to any other rights and remedies available to the City in law or in equity.

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FORM 11
 CERTIFICATION TO ACCURACY OF PROPOSAL
 (Continued)

I understand that I am swearing or affirming under oath to the truthfulness of the matters set forth above and that the intentional making of a false statement under oath constitutes perjury under Florida law.

Signature (Blue Ink Only)	Date
Print Name	Title

STATE OF FLORIDA
 COUNTY OF _____

The foregoing instrument was acknowledged before me by means of _____ physical presence or
 _____ online notarization, this _____ day of _____, 20____, by
 _____ as _____.
(Name of person acknowledging) (Title)

for _____.
(Company Name)

(NOTARY SEAL)

 SIGNATURE OF NOTARY PUBLIC

 PRINT, TYPE or STAMP NAME OF NOTARY

Personally Known _____ OR Produced Identification _____
 Type of identification Produced _____

FORM 12
RFQ No. 2024-03
DESIGN-BUILD SERVICES
VISTA PARK ARTIFICIAL TURF SOCCER FIELDS SELECTION COMMITTEE RANKING
(FIRST PHASE)

SAMPLE FORM

Proposals shall be ranked on the following Evaluation Criteria (Equally weighted)	Firm A	Firm B	Firm C	Firm D	Firm E
1. Location of PROPOSER’s firm: Years in business, office location and licenses.					
2. Qualification of PROPOSER’s Project Team: Describe the qualifications and relevant experience of the Design-Build Team including proposed key professional project team members, Subconsultants/Subcontractors, joint ventures, including their pertinent training, skill and experience. PROPOSER approach and methodology to the scope of services.					
3. Past Performance: PROPOSER Firm’s experience with providing design/build services for government agencies with infrastructure similar in scope, size and complexity or greater, than those owned and managed by the City of Weston.					
4. Workload: The PROPOSER recent, current, and projected workloads and willingness to meet time and budget requirements.					
5. PROPOSER’s financial ability to perform the services described in this RFQ.					
6. Whether PROPOSER is a certified minority business enterprise.					
TOTAL					
FINAL RANKING					

Selection Committee Member

Signature

Date

RFQ No. 2024-03
DESIGN-BUILD SERVICES
VISTA PARK ARTIFICIAL TURF SOCCER FIELDS SELECTION COMMITTEE RANKING
(SECOND PHASE)

SAMPLE FORM

Proposals shall be ranked on the following Evaluation Criteria (Equally weighted)	Firm A	Firm B	Firm C	Firm D	Firm E
1. Location of PROPOSER’s firm: Years in business, office location and licenses.					
2. Qualification of PROPOSER’s Project Team: Describe the qualifications and relevant experience of the Design-Build Team including proposed key professional project team members, Subconsultants/Subcontractors, joint ventures, including their pertinent training, skill and experience. PROPOSER approach and methodology to the scope of services.					
3. Past Performance: PROPOSER Firm’s experience with providing design/build services for government agencies with infrastructure similar in scope, size and complexity or greater, than those owned and managed by the City of Weston.					
4. Workload: The PROPOSER recent, current, and projected workloads and willingness to meet time and budget requirements.					
5. The volume of work previously awarded to Proposer. (Firms with no current agreements for professional engineering services with the CITY shall have a score/rank of 1. Firms with existing agreements continuing for professional engineering services agreements with the CITY shall have a score/rank of 2.					
6. Whether PROPOSER is a certified minority business enterprise.					
TOTAL					
FINAL RANKING					

Selection Committee Member

Signature

Date

SECTION 6 – AGREEMENT

The agreement located in this Section of the RFQ is the form of the agreement that will be utilized, with the successful DESIGN-BUILD FIRM. The City reserves the right to award or not to award in the best interests of the City.

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AGREEMENT
BETWEEN THE
THE CITY OF WESTON, FLORIDA

AND

FOR
DESIGN BUILD SERVICES
VISTA PARK ARTIFICIAL TURF SOCCER FIELDS
RFQ. 2024-03

This Agreement, is made and entered into the _____ day of _____, 20____ between the City of Weston, a Florida municipal corporation, (the "CITY"), and _____ ("DESIGN-BUILD FIRM") for Design Build Services, Vista Park Artificial Turf Soccer Fields (the "Agreement"). References in this Agreement to "City Manager" shall be meant to include his designee.

The following exhibits are incorporated herein and made a part of this Agreement:

- Exhibit A: Certificate of Insurance
- Exhibit B: Fee Schedule
- Exhibit C: CONTRACTOR's Sub-Contractors List
- Exhibit D: Transition Plan (Not Applicable)
- Exhibit E: Performance & Payment Security
- EXHIBIT F: RFQ No. 2024-03 (Vol. 1 & 2)
- EXHIBIT G: Guaranteed Maximum Price (GMP) Proposal

WITNESSETH:

WHEREAS, the CITY, pursuant to Section 287.055, Florida Statutes, solicited proposals from DESIGN-BUILD FIRMS to provide Design-Build Services for the Vista Park Artificial Turf Soccer Fields ("Services"); and

WHEREAS, proposals were evaluated and ranked by a Selection Committee; and

WHEREAS, the City Commission has selected the Design-Build Firm to provide services as outlined in the RFQ No. 2024-03 Vista Park Artificial Turf Soccer Fields ("RFQ"); and

WHEREAS, on _____, the CITY enacted Resolution No. _____, which ratified or altered the ranking of the Proposals and authorized the City Manager to negotiate a GMP and execute an Agreement with the DESIGN-BUILD FIRM, _____; and

WHEREAS, CITY and DESIGN-BUILD FIRM desire to enter into an Agreement whereby the duties and obligations each to the other are set forth.

IN CONSIDERATION OF THE MUTUAL COVENANTS AND CONDITIONS HEREIN EXPRESSED AND THE FAITHFUL PERFORMANCE OF ALL SUCH COVENANTS AND CONDITIONS, THE PARTIES AGREE AS FOLLOWS:

[THIS SPACE INTENTIONALLY LEFT BLANK]

ARTICLE 1
GENERAL INFORMATION

- 1.1 The term of this Agreement shall begin on the date it is fully executed by both parties and shall extend until completion of the Project, Vista Park Artificial Turf Soccer Fields, described in the RFQ, subject to the Notice to Proceed and the guaranteed completion time Two Hundred Seventy (270) calendar days for project completion) agreed to as part of the GMP negotiations.
- 1.2 This Agreement may be terminated for cause by action of the City Commission if DESIGN-BUILD FIRM is in breach and has not corrected the breach within 30 days after written notice from CITY identifying the breach, or for convenience by action of the City Commission upon not less than 30 days written notice by the City Manager. This Agreement may also be terminated by the City Manager upon such notice as the City Manager deems appropriate under the circumstances in the event the City Manager determines that termination is necessary to protect the public health, safety, or welfare.
- A. This Agreement may be terminated for cause by DESIGN-BUILD FIRM if CITY is in breach and has not corrected the breach within 60 days after written notice from DESIGN-BUILD FIRM identifying the breach.
 - B. Termination of this Agreement for cause shall include but not be limited to, failure to suitably perform the services, failure to continuously perform the services in a manner calculated to meet or accomplish the objectives of CITY as set forth in this Agreement or multiple breaches of the provisions of this Agreement notwithstanding whether any such breach was previously waived or cured.
 - C. Notice of termination shall be provided in accordance with Section 8.7, Notices, of this Agreement except that notice of termination by the City Manager which the City Manager deems necessary to protect the public health, safety or welfare may be verbal notice which shall be promptly confirmed in writing in accordance with Section 8.7, Notices, of this Agreement.
 - D. In the event this Agreement is terminated for convenience, upon being notified of CITY'S election to terminate, DESIGN-BUILD FIRM shall refrain from performing further services or incurring additional expenses under the terms of this Agreement. DESIGN-BUILD FIRM acknowledges and agrees that Ten Dollars (\$10.00) of the compensation to be paid by CITY, the adequacy of which is hereby acknowledged by DESIGN-BUILD FIRM is given as specific consideration to DESIGN-BUILD FIRM for CITY'S right to terminate this Agreement for convenience.
 - E. In the event this Agreement is terminated, any compensation payable by CITY shall be withheld until all documents are provided to CITY pursuant to the Agreement. The CITY shall be liable only for payment pursuant to the Compensation provisions of this Agreement for services rendered before the effective date of termination that were performed in accordance with the manner of performance set forth in the Agreement. In no event shall CITY be liable to DESIGN-BUILD FIRM for any additional compensation, other than that provided herein, or for any consequential or incidental damages.

- F. This Agreement may be terminated by the CITY if the DESIGN-BUILD FIRM is found to have submitted a false certification, Form 8, Scrutinized Companies, has been placed on the Scrutinized Companies that Boycott Israel List, or is engaged in a boycott of Israel, has been placed on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or has been engaged in business operations in Cuba or Syria.
- 1.3 This Agreement is based on the General Information set forth herein and incorporates Volume 1 and Volume 2 of the Request for Qualifications RFQ No. 2024-03 for Design Build Services for Vista Park Artificial Turf Soccer Fields (the "RFQ") and the negotiated GMP, attached hereto and made a part hereof, as Exhibit F and Exhibit G, respectively.
- 1.4 DESIGN-BUILD FIRM shall obtain a Notice to Proceed ("NTP") or other forms of written approval prior to commencement of Services. City shall not be responsible for payment for any work done without a NTP.

ARTICLE 2
DESIGN-BUILD FIRM'S RESPONSIBILITIES

- 2.1 The DESIGN-BUILD FIRM shall provide the professional design and construction services as set forth in this Agreement and Exhibits hereto (the "Services").
- 2.2 The DESIGN-BUILD FIRM shall perform its Services consistent with the professional skill and care ordinarily provided by design firms practicing in the same or similar locality under the same or similar circumstances. The DESIGN-BUILD FIRM shall perform Services as expeditiously as is consistent with such professional skill and care and orderly progress of the Project.
- 2.3 The DESIGN-BUILD FIRM shall identify a representative authorized to act on behalf of the DESIGN-BUILD FIRM with respect to the Project.
- 2.4 The DESIGN-BUILD FIRM shall maintain the following insurance for the duration of this Agreement, the cost of which shall be included in the DESIGN-BUILD FIRM's compensation.

A. Standards of Insurance

- 1. Before performing any Services, DESIGN-BUILD FIRM shall procure and maintain, during the life of the contract, unless otherwise specified, insurance listed below. The policies of insurance shall be primary and written on forms acceptable to the City and placed with insurance carriers approved and licensed by the Insurance Department in the State of Florida and meet a minimum financial AM Best Company rating of no less than "A- Excellent: FSC VII." In the event that the insurance carrier's rating shall drop, the insurance carrier shall immediately notify the City. No changes shall be made to these specifications without prior written specific approval by the City.
- 2. All policies required by this contract, with the exception of Workers' Compensation, or unless specific approval is given by the City, are to be

written on an occurrence basis, shall name "City of Weston" as Additional Insured during the project and for a minimum of five (5) years following the project completion and acceptance by the City or no more restrictive than ISO form CG 20 37 (07 04). Waiver of subrogation in favor of the City of Weston is required on all policies except Workers' Compensation. The CITY shall be named as additional insured on all policies except worker's compensation and professional liability.

3. Any person, organization, vehicle, equipment, or other person or property fulfilling this Agreement is bound by these insurance requirements.
4. Any changes to these specifications shall be at the sole and exclusive discretion of CITY.
5. CITY retains the right to review, at any time, policies, coverage, applicable forms/endorsements, and amounts of insurance.
6. DESIGN-BUILD FIRM is responsible for repairing or replacing any damage to structures unless otherwise addressed within this Agreement.
7. Insurance shall not be suspended, voided or canceled except after 30 calendar days prior written notice by certified mail, return receipt requested, has been given to CITY, except the cancellation notice period for non-payment of premiums shall be 10 days.
8. Certificates of Insurance evidencing conditions to this agreement are to be furnished to City of Weston, 17200 Royal Palm Boulevard, Weston, FL 33326.
9. Notices of Accidents (occurrences) and Notices of Claims associated with work being performed under this Agreement shall be provided to CONSULTANT's insurance company and CITY as soon as practicable after notice to the insured.
10. DESIGN-BUILD FIRM agrees by entering into this written Agreement that the insurance policies provided will include a Waiver of Subrogation in favor of CITY. DESIGN-BUILD FIRM 'S insurance shall be Primary and non-contributory.
11. DESIGN-BUILD FIRM is responsible for any costs or expenses below deductibles, self-insured retentions, coverage exclusions or limitations, or coinsurance penalties.

B. Specific Coverage

1. Workers Compensation: DESIGN-BUILD FIRM shall provide statutory workers' compensation, and employer's liability insurance with limits of not less than \$1,000,000 per employee per accident, \$1,000,000 disease aggregate and \$1,000,000 per employee per disease for all personnel on the worksite. If applicable, coverage for the Jones Act and United States Longshoremen and Harborworkers exposures must also be included.

Elective exemptions shall NOT satisfy this requirement. Certificates evidencing an employee leasing company as employer shall not be accepted). In the event DESIGN-BUILD FIRM has "leased" employees, DESIGN-BUILD FIRM must provide a workers' compensation policy for all personnel on the worksite. All documentation must be provided for review and approval by CITY.
2. DESIGN-BUILD FIRM is responsible for the Workers' Compensation of any and all subconsultants, including leased employees, used by DESIGN-BUILD FIRM. Evidence of workers' compensation insurance coverage for all subconsultants, including leased employees, must be submitted prior to any work being performed.
3. Commercial General Liability: DESIGN-BUILD FIRM shall provide evidence of commercial general liability on an occurrence Form no more restrictive than ISO form CG 2010, and including but not limited to bodily injury, property damage, contractual liability, products and completed operations (without limitation), and personal and advertising injury liability with limits of not less than \$5,000,000 each occurrence, and \$10,000,000 in aggregate, covering all work performed under this Agreement.
4. Business Automobile Liability: DESIGN-BUILD FIRM shall provide evidence of business automobile liability on a standard ISO form and including per occurrence limits of not less than \$2,000,000 covering all work performed under this Agreement. Coverage shall include liability for owned, non-owned & hired automobiles. If private passenger automobiles are used in the business, they shall be commercially insured.
5. Umbrella or Excess Liability: Umbrella policies are acceptable to provide the total required general liability, automobile liability, and employers' liability limits. Umbrella policies shall also name CITY as additional insured and coverage shall be provided on a "Follow Form" basis.
6. Professional Liability: DESIGN-BUILD FIRM shall maintain Professional Liability insurance for both the DESIGN-BUILD FIRM and any professionals required to carry professional licenses. The policy shall be written at a limit of not less than \$1,000,000 Each Occurrence and \$2,000,000 Annual Aggregate.

2.5 Errors and Omissions

The DESIGN-BUILD FIRM shall be responsible for technically deficient designs, reports, or studies due to errors and omissions, and shall promptly correct or replace all such deficient design work without cost to CITY upon the request of the CITY for five years after the date of acceptance of the services by the CITY, when judged to have been in error by a court of competent jurisdiction. DESIGN-BUILD FIRM shall also be responsible for the cost of correcting deficient construction which was built from technically deficient designs. Payment in full by the CITY for work performed does not constitute a waiver of this provision.

2.6 DESIGN-BUILD FIRM's Basic Services

DESIGN-BUILD FIRM agrees to provide complete professional engineering services including the applicable Basic Services in accordance with all applicable federal, state, county and CITY, laws, codes ordinances and regulations. DESIGN-BUILD FIRM shall maintain an adequate staff of qualified personnel on the Project at all times to ensure its performance as specified in the Agreement.

When submitting documents to the CITY, the DESIGN-BUILD FIRM shall also submit, at no additional cost to the CITY, three (3) hard copies and documents in an electronic format in MS-Word, Excel, PDF and AutoCAD latest versions.

A. Engineering Design Phase

Based on the information contained in the Design Criteria Package (“DCP”) prepared by the City’s Design Criteria professional (“CONSULTANT”), set forth in volume 2 of the RFQ, and scope modifications incorporated into the Project during GMP negotiations, the DESIGN-BUILD FIRM shall finalize the design documents and submit to the City for review and approval.

1. DESIGN-BUILD FIRM shall prepare and deliver to the CITY the record drawings in the form required by the CITY.
2. DESIGN-BUILD FIRM shall file and follow-up for all permits at the earliest practicable time during the design phase, the necessary portions of the construction documents for approval by applicable authorities having jurisdiction. prior to approval by the CITY of the final set and printing of the Construction Documents.
3. DESIGN-BUILD FIRM shall prepare all support documents to accompany any necessary permit applications. DESIGN-BUILD FIRM shall provide, at no additional cost to the CITY, all necessary sets of sealed plans for permit applications. DESIGN-BUILD FIRM shall respond to all technical questions from regulatory agencies. DESIGN-BUILD FIRM shall modify, at no additional cost to the CITY, Construction Documents in order to acquire the necessary permits.

4. Should any component of the design or report not meet applicable regulations or codes in effect at the time of completion of design, the DESIGN-BUILD FIRM shall redesign with no additional cost to the CITY.
5. The DESIGN-BUILD FIRM shall signify responsibility for the construction documents prepared pursuant to this AGREEMENT by affixing the firm's engineer of record signature, date and seal thereto as required by Chapters 471 and 481, Florida Statutes.
6. When submitting documents to the CITY, the DESIGN-BUILD FIRM shall also submit, at no additional cost to the CITY, three (3) hard copies and documents in an electronic format in WORD, Excel, PDF and AutoCAD latest versions.
7. DESIGN-BUILD FIRM'S services under the design phase will be considered complete when the construction and bid documents are delivered to and accepted by the CITY in format accepted by the CITY.

B. Construction Phase - General Administration of Construction Documents

1. The DESIGN-BUILD FIRM shall make recommendations to the CITY on all claims of the CITY and the CONSULTANT regarding interpretation of the construction documents, and on all other matters relating to the execution and progress of the Services. The DESIGN-BUILD FIRM shall coordinate with the City and the CONSULTANT to check and approve samples, schedules, shop drawings, and other submissions for conformance with the concept of the Project, and for compliance with the information given by the Construction Documents.
2. The DESIGN-BUILD FIRM shall submit Schedule of Values, together with any supporting documentation for City's approval prior to the start of construction and within the time frame established in the NTP.
3. If the Schedule of Values is not found to be appropriate, it shall be returned to the DESIGN-BUILD FIRM for revision or supporting documentation.
4. The DESIGN-BUILD FIRM shall conduct a pre-construction meeting with the CONSULTANT, the CITY, and utility companies; prepare and distribute minutes of the meeting.
5. The DESIGN-BUILD FIRM shall coordinate inspections of the Work based on the type and frequency defined in the DCP with the City and the CONSULTANT.
6. The DESIGN-BUILD FIRM shall continually update the Construction Drawings during construction and submit record drawings or corrected CADD drawings to the CITY to show those changes made during the construction process, based on the marked-up prints, drawings, and other data recorded during construction.

7. The DESIGN-BUILD FIRM shall coordinate and conduct regularly scheduled Progress Meetings on site, and prepare and distribute minutes.
8. Should the CITY or the CONSULTANT approve progress payments to DESIGN-BUILD FIRM in excess of the value of the Services performed, and the DESIGN-BUILD FIRM defaults leaving insufficient funds to complete the Services, DESIGN-BUILD FIRM shall reimburse the CITY for the difference between the amount of the progress payment actually approved and the amount which should have been approved.
9. If any portion of the Services are covered, based on approval of DESIGN-BUILD FIRM, without the CITY'S and Building Official's inspection and approval, the CITY'S representative may direct that portion of the Services uncovered for inspection. If that portion of the Services uncovered is not defective and is in accordance with the plans and specifications, DESIGN-BUILD FIRM shall bear the cost of uncovering and covering the Services. If that portion of the Services uncovered is defective or not in accordance with the plans and specifications, the DESIGN-BUILD FIRM shall bear the cost of uncovering, repairing, and covering the Services.
10. For the purpose of payment to DESIGN-BUILD FIRM, the Construction Phase shall be considered complete upon completion of punch list items by DESIGN-BUILD FIRM and submission of all documents, training, record drawings, releases of lien, and written recommendation by CONSULTANT of final payment.
11. DESIGN-BUILD FIRM shall have overall responsibility for the means, methods, techniques, sequences, or procedures selected for the construction or for safety precautions and programs incidental to the work.

C. Date Of Commencement and Substantial and Final Completion

1. The DESIGN-BUILD FIRM shall be instructed to commence the Services by written instruction in the form of Notices to Proceed issued by the City. The Notice to Proceed will not be issued until DESIGN-BUILD FIRM's submission to CITY of all required documents and after execution of the Agreement by both parties.
 - a. After issuance of the Notice to Proceed, DESIGN-BUILD FIRM shall submit to the CITY all of the following items for CITY's approval:
 - b. A project schedule in compliance with the requirements of the Contract Documents. Additionally, at the request of the CITY, DESIGN-BUILD FIRM shall also provide for review and approval a detailed, precedence-style, resource loaded, cost loaded, critical path method (CPM) type schedule, in a format satisfactory to the CITY which shall also: (1) provide a graphic representation of all activities and events that will occur during performance of the Services ; (2) identify each phase of construction, Substantial Completion, occupancy and Final Completion;

and (3) set forth milestone dates that are critical in ensuring the timely and orderly completion of the Project in accordance with the requirements of the Contract Documents. DESIGN-BUILD FIRM shall provide CITY with the schedule in hard copies and in electronic files, such that the CITY may see DESIGN-BUILD FIRM's logic.

- c. A preliminary schedule of planned Shop Drawing and submittal submissions.
 - d. A preliminary schedule of values in sufficient detail to serve as the basis for progress payments during construction.
 - e. Utility coordination schedule: DESIGN-BUILD FIRM shall be responsible for meeting and coordinating with all utility owners as it relates to the Project and secure from them a schedule of utility relocation, as applicable. CITY shall not be responsible for the nonperformance by the utility owners.
 - f. All permits required by authorities having jurisdiction for all portions of the Project, unless otherwise provided by the Contract Documents.
2. Preconstruction Meeting: After receipt of all items identified above, a project kickoff Meeting will be held to discuss procedures for conducting the Work, including but not limited to designating individuals to receive communications; for required submissions, inspections and approvals; for processing Applications for Payment; and to establish a working understanding among the parties as to the Project.
 3. The Date of Commencement is the date from which the Contract time is measured and shall be the date set forth in the Notice To Proceed as issued by the CITY. Should the DESIGN-BUILD FIRM incur costs prior to the issuance of the Notice to Proceed, any such costs shall be incurred at the DESIGN-BUILD FIRM's risk, and the CITY shall not reimburse the DESIGN-BUILD FIRM for any such costs under any circumstances. Notwithstanding the foregoing, CITY may reimburse DESIGN-BUILD FIRM for actual costs incurred relating to performance and payment bonds and insurance, with submittal of invoices, in the event that CITY terminates this Agreement for convenience, as provided in the General Conditions. If DESIGN-BUILD FIRM fails to commence the Services within Ten (10) days of the date set forth in the Notice to Proceed, CITY may terminate the Agreement immediately, without providing an opportunity to cure.
 4. The DESIGN-BUILD FIRM shall achieve Substantial Completion not later than Two Hundred Forty (240) calendar days commencing with the date set forth in the Notice to Proceed as issued by the , subject to adjustments of this Contract Time as provided in the Contract Documents. The DESIGN-BUILD FIRM shall achieve Final Completion of the entire Project not later than Two Hundred Seventy (270) calendar days commencing with the date set forth in the Notice To Proceed as issued by the CITY, subject to adjustments of this Contract Time as provided in the Contract Documents.

5. The Parties agree that time is of the essence in the performance of this Agreement. DESIGN-BUILD FIRM shall achieve Substantial Completion as defined in the Contract Documents, subject to any authorized extensions of time as indicated by a properly executed written Change Order, in strict accordance with the time limits set forth in the Contract Documents. In the event the Project is not Substantially Completed within the time limits set forth in the Contract Documents and has not been extended by a properly executed written Change Order, the CITY shall be entitled to collect liquidated damages from DESIGN-BUILD FIRM for each calendar day DESIGN-BUILD FIRM is late in achieving Substantial Completion.
 - a. DESIGN-BUILD FIRM and CITY agree that, because of the nature of the Project, the inability of the parties to precisely calculate actual damages for delay and the impossibility of determining these damages at the time of entering into this Agreement, the sum of Eight Hundred Dollars (\$800.00) for each calendar day shall be assessed as liquidated damages for each calendar day that DESIGN-BUILD FIRM is late in achieving Substantial Completion of the Project.
 - b. DESIGN-BUILD FIRM shall achieve Final Completion as defined in the Contract Documents, subject to any authorized extensions of time as indicated by a properly executed written Change Order, in strict accordance with the time limits set forth in the Contract Documents. In the event the Project does not reach Final Completion within the time limits set forth in the Contract Documents and it has not been extended by a properly executed written Change Order, the CITY shall be entitled to collect liquidated damages from DESIGN-BUILD FIRM for each calendar day after Substantial Completion where DESIGN-BUILD FIRM is late in achieving Final Completion. DESIGN-BUILD FIRM and CITY agrees that, because of the nature of the Project, the inability of the parties to precisely calculate actual damages for delay and the impossibility of determining these damages at the time of entering into this Agreement, the sum of Two Hundred Fifty and 00/100 Dollars (\$250.00) for each calendar day shall be assessed as liquidated damages for each calendar day after Substantial Completion, where DESIGN-BUILD FIRM is late in achieving Final Completion of the Project.
 - c. It is hereby agreed that the above per diem assessments are reasonable, are not penalties and are not excessive in light of the circumstances known to the parties at the time this Agreement is executed.
 - d. This provision shall not affect the CITY's right to terminate this Agreement as provided in the Contract Document nor shall it limit any of the other remedies as provided in the Contract Documents. The CITY's exercise of its right to terminate this Agreement shall not release the DESIGN-BUILD FIRM from its obligation to pay liquidated damages in the amounts set forth herein. Such assessments shall be immediately due and payable to the CITY or, at the CITY's option may be deducted from current or future payments that are or may be due and owing to DESIGN-BUILD FIRM.
6. The CITY and the DESIGN-BUILD FIRM recognize and agree that the precise amount of the DESIGN-BUILD FIRM's Indirect Costs for delay in the performance

and completion of the Project is impossible to determine as of the date of execution of the Agreement, and that proof of the precise amount will be difficult. Therefore, Liquidated Indirect Costs recoverable by the DESIGN-BUILD FIRM shall be assessed on a daily basis for each Day the Contract Time is delayed due to compensable delay. These Liquidated Indirect Costs, the sum of Three Hundred and Twenty Dollars (\$320.00) for each calendar day, shall be paid to the DESIGN-BUILD FIRM in full satisfaction of all costs and damages caused by compensable excusable delays, except for Direct Costs. There shall be no Liquidated Indirect Costs payable for time directly related to extra work for which a Change Order has been issued.

7. DESIGN-BUILD FIRM shall submit to the CITY all required paperwork within thirty (30) days after Final Completion. Should DESIGN-BUILD FIRM fail to complete and submit all required paperwork including the Project Closeout Forms within thirty (30) days after Final Completion, DESIGN-BUILD FIRM shall pay CITY, One Hundred Dollars (\$100.00) per calendar day until compliance or CITY shall deduct such monies from the monies owed to DESIGN-BUILD FIRM. Should DESIGN-BUILD FIRM fail to comply within sixty (60) days after Final Completion the DESIGN-BUILD FIRM waives its right to the retainage and any other monies owed from the CITY to the DESIGN-BUILD FIRM pursuant to the Agreement.

SECTION 3 ADDITIONAL SERVICES

If it should become necessary for the CITY to request DESIGN-BUILD FIRM to render any additional services to either supplement the Services described in this RFQ or to perform additional work, such additional work shall be performed only if set forth in an amendment to this Agreement. Any such additional work agreed to by both parties shall be based on a lump sum as mutually agreed upon between the DESIGN-BUILD FIRM and CITY.

SECTION 4 CITY'S RESPONSIBILITIES

- 4.1 The CITY shall identify a representative (CONSULTANT) authorized to act on the CITY's behalf with respect to the Project.
- 4.2 The CITY shall assist DESIGN-BUILD FIRM by placing at its disposal all available information for the Project, whenever reasonably possible.
- 4.3 The CITY shall provide the DESIGN-BUILD FIRM access to the Project related areas.
- 4.4 The CITY shall reimburse the DESIGN-BUILD FIRM for applicable permit application fees.

SECTION 5 COPYRIGHTS AND LICENSES OWNERSHIP OF DOCUMENTS

Unless otherwise provided by law, any and all reports, photographs, surveys, and other data and documents provided or created in connection with this Agreement are and shall remain the

property of CITY. In the event of termination of this Agreement, any reports, photographs, surveys and other data and documents prepared by DESIGN-BUILD FIRM, whether finished or unfinished, shall become the property of CITY and shall be delivered by DESIGN-BUILD FIRM to the City Manager within seven (7) days of termination of this Agreement by either party. Any compensation due to DESIGN-BUILD FIRM shall be withheld until all documents are received as provided herein.

All subcontracts for the preparation of reports, photographs, surveys and other data and documents entered into by DESIGN-BUILD FIRM for the project shall provide that all documents and rights obtained by virtue of such contracts shall become the property of CITY.

SECTION 6 COMPENSATION

- 6.1 Based upon Applications for Payment submitted to the CONSULTANT by the DESIGN-BUILD FIRM and Certifications of Payment issued by the CONSULTANT, the CITY shall make progress payments on account of the Contract Sum to the DESIGN-BUILD FIRM as provided below, elsewhere in the Contract Documents and in accordance with Part VII of Chapter 218, Florida Statutes, as may be amended from time to time, entitled the "Local Government Prompt Payment Act."
- 6.2 The period covered by each Application for Payment shall be one calendar month ending on the last day of the month, or as follows:
- 6.3 Each Application for Payment shall be based upon the Schedule of Values submitted by the DESIGN-BUILD FIRM in accordance with the Contract Documents. The Schedule of Values shall allocate the entire Contract Sum among the various portions of the work and be prepared in such form and supported by such data to substantiate its accuracy as the CONSULTANT may require. This schedule, unless objected to by the CONSULTANT, shall be used as a basis for reviewing the DESIGN-BUILD FIRM's Applications for Payment.
- 6.4 Applications for Payment shall indicate the percentage of completion of each portion of the Work as of the end of the period covered by the Application for Payment.
- 6.5 Subject to the provisions of the Contract Documents, the amount of each progress payment shall be computed as follows:
 - (A) Take that portion of the Contract Sum properly allocable to completed work on the Project as determined by multiplying the percentage of completion of each portion of the Project by the share of the total Contract Sum allocated to that portion of the Project in the Schedule of Values, less retainage of five percent (5%) until 50-percent completion and after 50-percent completion, reduce to two and half percent (2.5%) the amount of retainage withheld from each subsequent progress payment.
 - (B) Add that portion of the Contract Sum properly allocable to materials and equipment delivered and installed, less the applicable retainage. No sums shall be due for materials stored on or off site not yet installed.
 - (C) Subtract the aggregate of previous payments made by the CITY; and
 - (B) Subtract amounts, if any, for which the CONSULTANT has withheld or nullified.

6.6 Each Application for Payment after the first Application shall be accompanied by a Certification of Payment form, provided by the CITY, from the DESIGN-BUILD FIRM and each Supplier and Subcontractor, in amounts equal to those stated in the PRIOR Application for the DESIGN-BUILD FIRM and each Subcontractor and each Subcontractor, Material/Labor Supplier so due payment. The Application for Payment for Retainage shall be accompanied by a final Certification of Payment and Release of Claim form from the DESIGN-BUILD FIRM, each Supplier and Subcontractor in amounts equal to those stated in the Schedule of Values.

6.7 Final Payment

Final payment, constituting the entire unpaid balance of the Contract Sum, shall be made by the CITY to the DESIGN-BUILD FIRM when (1) this Agreement has been fully performed by the DESIGN-BUILD FIRM except for the DESIGN-BUILD FIRM's responsibility to correct nonconforming work, if any, which obligation survives final payment and continues thereafter; and (2) a final Certification of Payment has been issued by the CONSULTANT; such final payment shall be made by the CITY not more than 30 days after the issuance of the CONSULTANT's final Certification of Payment, (3) final Certification of Payment have been furnished from the DESIGN-BUILD FIRM, Suppliers and Subcontractors; and (4) a Consent of Surety, if any, for final payment.

SECTION 7
INDEMNIFICATION

7.1 DESIGN-BUILD FIRM shall indemnify and hold harmless the CITY, and its officers and employees, from liabilities, damages, losses and costs, including, but not limited to, reasonable attorneys' fees, to the extent caused by the negligence, recklessness or intentionally wrongful conduct of the DESIGN-BUILD FIRM and other persons employed or utilized by the DESIGN-BUILD FIRM in the performance of the services under this Agreement.

7.2 DESIGN-BUILD FIRM acknowledges that specific consideration has been paid or will be paid under this Agreement for this hold harmless and indemnification provision, and further agrees with the foregoing provisions of indemnity and with the collateral obligation of insuring said indemnity.

7.3 The provisions of this section shall survive the expiration or earlier termination of this Agreement. To the extent considered necessary by the City Manager and the City Attorney, any sums due DESIGN-BUILD FIRM under this Agreement may be retained by CITY until all of CITY's claims for indemnification pursuant to this Agreement have been settled or otherwise resolved; and any amount withheld shall not be subject to payment of interest by CITY.

SECTION 8
MISCELLANEOUS

- 8.1 Unless otherwise provided by law, any and all reports, surveys, and other data and documents provided or created in connection with this Agreement are and shall remain the property of CITY. Any compensation due to DESIGN-BUILD FIRM shall be withheld until all documents are received as provided herein.
- 8.2 Audit and Inspection Rights, Retention of Records:
- A. CITY shall have the right to audit the books, records and accounts of DESIGN-BUILD FIRM that are related to this Agreement. DESIGN-BUILD FIRM shall keep such books, records, and accounts as may be necessary in order to record complete and correct entries related to this Agreement.
 - B. DESIGN-BUILD FIRM agrees to keep such records and accounts as may be necessary in order to record complete and correct entries as to personnel hours charged for which DESIGN-BUILD FIRM receives reimbursement. Such records and accounts shall be kept after completion of the work provided for in this Agreement, for at a minimum, the retention period required by the Florida Public Records Act (Chapter 119, Florida Statutes) and by item 340, Disbursement Records: Detail, of the State of Florida General Records Schedule GS1-SL for State and Local Government Agencies, as may be promulgated from time to time. Such books and records shall be available at all reasonable times for examination and audit by CITY.
 - C. Such retention of such records and documents shall be at DESIGN-BUILD FIRM'S expense.
 - D. If any audit has been initiated and audit findings have not been resolved at the end of the retention period, the books, records, and accounts shall be retained until resolution of the audit findings. If the Florida Public Records Act is determined by CITY to be applicable to DESIGN-BUILD FIRM'S records, DESIGN-BUILD FIRM shall comply with all requirements thereof; however, no confidentiality or non-disclosure requirement of either federal or state law shall be violated by DESIGN-BUILD FIRM. Any incomplete or incorrect entry in such books, records, and accounts shall be a basis for CITY'S disallowance and recovery of any payment upon such entry.
 - E. DESIGN-BUILD FIRM shall respond to the reasonable inquiries of successor DESIGN-BUILD FIRM(S) and allow successor DESIGN-BUILD FIRM(S) to receive working papers relating to matters of continuing significance.
 - F. DESIGN-BUILD FIRM shall provide a complete copy of all working papers to CITY, prior to final payment by CITY, in accordance with the Agreement for DESIGN-BUILD FIRM'S services.

8.3 Public Records: DESIGN-BUILD FIRM shall comply with The Florida Public Records Act as follows:

- A. Keep and maintain public records that ordinarily and necessarily would be required by the CITY in order to perform the service.
- B. Upon request by the CITY's records custodian, provide the CITY with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes, or as otherwise provided by law.
- C. Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the Agreement term.
- D. Upon completion of the Agreement or in the event of termination of the Agreement by either party, any and all public records relating to the Agreement in the possession of DESIGN-BUILD FIRM shall be delivered by DESIGN-BUILD FIRM to CITY, at no cost to CITY, within seven (7) days. All records stored electronically by DESIGN-BUILD FIRM shall be delivered to the CITY in a format that is compatible with the CITY's information technology systems. Once the public records have been delivered to the CITY upon completion or termination of this Agreement, DESIGN-BUILD FIRM shall destroy any and all duplicate public records that are exempt or confidential and exempt from public record disclosure requirements.
- E. DESIGN-BUILD FIRM'S failure or refusal to comply with the provisions of this Section shall result in the immediate termination of this Agreement by the CITY.

IF DESIGN-BUILD FIRM HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO DESIGN-BUILD FIRM'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT 954-385-2000, pbates@westonfl.org OR BY MAIL: City Of Weston – Office Of City Clerk, 17200 Royal Palm Boulevard, Weston, FL 33326.

8.4 Policy of Non-Discrimination: DESIGN-BUILD FIRM shall not discriminate against any person in its operations, activities or delivery of services under this Agreement. DESIGN-BUILD FIRM shall affirmatively comply with all applicable provisions of federal, state and local equal employment laws and shall not engage in or commit any discriminatory practice against any person based on race, age, religion, color, gender, sexual orientation, national origin, marital status, physical or mental disability, political affiliation or any other factor which cannot be lawfully used as a basis for service delivery.

8.5 Public Entity Crime Act:

DESIGN-BUILD FIRM represents that the execution of this Agreement will not violate the Public Entity Crime Act (Section 287.133, Florida Statutes), which essentially provides that a person or affiliate who is a DESIGN-BUILD FIRM, DESIGN-BUILD FIRM or other provider and who has been placed on the convicted vendor list following a conviction for a Public Entity Crime may not submit a bid on an contract to provide any goods or services to CITY, may not submit a bid on a contract with CITY for the construction or repair of a public

building or public work, may not submit bids on leases of real property to CITY, may not be awarded or perform work as a DESIGN-BUILD FIRM, supplier, subcontractor, or DESIGN-BUILD FIRM under a contract with CITY, and may not transact any business with CITY in excess of the threshold amount provided in Section 287.017, Florida Statutes, for category two purchases for a period of thirty six (36) months from the date of being placed on the convicted vendor list. Violation of this section shall result in termination of this Agreement and recovery of all monies paid hereto and may result in debarment from CITY'S competitive procurement activities.

In addition to the foregoing, DESIGN-BUILD FIRM further represents that there has been no determination, based on an audit, that it committed an act defined by Section 287.133, Florida Statutes, as a "public entity crime" and that it has not been formally charged with committing an act defined as a "public entity crime" regardless of the amount of money involved or whether DESIGN-BUILD FIRM has been placed on the convicted vendor list.

8.6 Third Party Beneficiaries: Neither DESIGN-BUILD FIRM nor CITY intends to directly or substantially benefit a third party by this Agreement. Therefore, the parties agree that there are no third party beneficiaries to this Agreement and that no third party shall be entitled to assert a claim against either of them. Based upon this Agreement the parties expressly acknowledge that it is not their intent to create any rights or obligations in any third person or entity under this Agreement.

8.7 Notices: Whenever either party desires to give notice to the other, such notice shall be in writing, sent by certified United States mail postage, prepaid return receipt requested or by hand delivery with a request for a written receipt of acknowledgment of delivery, addressed to the party for whom it is intended at the place last specified. The place for giving notice shall remain the same as set forth herein until changed in writing in the manner provided in this section. For the present, the parties designate the following:

CITY: Donald P. Decker, City Manager/CEO
Weston City Hall
17200 Royal Palm Boulevard
Weston, Florida 33326

With a copy to:

Jamie Alan Cole, Esq.
City Attorney
Weiss Serota Helfman Cole & Bierman, P.L.
200 East Broward Boulevard, Suite 1900
Fort Lauderdale, Florida 33301

DESIGN-BUILD FIRM: _____

8.8 Assignment and Performance. Neither this Agreement nor any interest herein shall be assigned, transferred, or encumbered by DESIGN-BUILD FIRM, except with the prior approval of the City Manager, which shall be in his sole and absolute discretion. In addition, DESIGN-BUILD FIRM shall not subcontract any portion of the work required by this Agreement, except with the prior approval of the City Manager, which shall be in his sole and absolute discretion. A list of all such subcontractors shall be included in the Proposal. If additional subcontractors are to be used during the term of this Agreement, other than those submitted in the Proposal, a list of such subcontractors shall be provided to the City Manager, subject to his approval.

DESIGN-BUILD FIRM represents that all persons delivering the services required by this Agreement have the knowledge and skills, either by training, experience, education, or a combination thereof, to adequately and competently perform the duties, obligations, and services set forth in the RFQ and to provide and perform such services to CITY'S satisfaction for the agreed compensation. DESIGN-BUILD FIRM shall perform its duties, obligations and services under this Agreement in a skillful and respectable manner.

8.9 Conflicts. Neither DESIGN-BUILD FIRM nor its employees shall have or hold any continuing or frequently recurring employment or contractual relationship that is substantially antagonistic or incompatible with DESIGN-BUILD FIRM's loyal and conscientious exercise of judgment related to its performance under this Agreement.

In the event DESIGN-BUILD FIRM is permitted to utilize subcontractor to perform any services required by this Agreement, DESIGN-BUILD FIRM agrees to prohibit such subcontractor, by written contract, from having any conflicts within the meaning of this section.

8.10 Contingency Fee. DESIGN-BUILD FIRM warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for DESIGN-BUILD FIRM, to solicit or secure this Agreement and that it has not paid or agreed to pay any person, company, corporation, individual or firm, other than a bona fide employee working solely for DESIGN-BUILD FIRM, any fee, commission, percentage, gift, or other consideration contingent upon or resulting from the award or making of this Agreement. For a breach or violation of this provision, CITY shall have the right to terminate this Agreement without liability and, at its discretion, to deduct from the Agreement price or otherwise recover the full amount of such fee, commission, percentage, gift or consideration.

- 8.11 Materiality and Waiver of Breach. CITY and DESIGN-BUILD FIRM agree that each requirement, duty, and obligation set forth herein is substantial and important to the formation of this Agreement and, therefore, is a material term hereof. CITY'S failure to enforce any provision of this Agreement shall not be deemed a waiver of such provision or modification of this Agreement. A waiver of any breach of a provision of this Agreement shall not be deemed a waiver of any subsequent breach and shall not be construed to be a modification of the terms of this Agreement.
- 8.12 Compliance with Laws. DESIGN-BUILD FIRM shall comply with all federal, state, and local laws, codes, ordinances, rules, and regulations in performing its duties, responsibilities, and obligations pursuant to this Agreement.
- 8.13 Severance. In the event a portion of this Agreement is found by a court of competent jurisdiction to be invalid, the remaining provisions shall continue to be effective unless CITY or DESIGN-BUILD FIRM elects to terminate this Agreement. An election to terminate this Agreement based upon this provision shall be made within seven (7) days after the finding by the court becomes final.
- 8.14 Joint Preparation. The parties acknowledge that they have sought and received whatever competent advice and counsel as was necessary for them to form a full and complete understanding of all rights and obligations herein and that the preparation of this Agreement has been their joint effort. The language agreed to expresses their mutual intent and the resulting document shall not, solely as a matter of judicial construction, be construed more severely against one of the parties than the other.
- 8.15 Priority of Provisions. If there is a conflict or inconsistency between any term, statement, requirement, or provision of any exhibit attached hereto, any document or events referred to herein, or any document incorporated into this Agreement by reference and a term, statement, requirement, or provision of this Agreement, the term, statement, requirement, or provision contained in Articles 1 through 8 of this Agreement shall prevail and be given effect.
- 8.16 Applicable Law and Venue; Attorney Fees and Costs. This Agreement shall be interpreted and construed in accordance with and governed by the laws of the State of Florida. The parties submit to the jurisdiction of any Florida state or federal court in any action or proceeding arising out of, or relating to, this Agreement. Venue of any action to enforce this Agreement shall be in Broward County, Florida. The parties expressly waive all rights to trial by jury, including advisory juries, for any disputes arising from or in any way connected with this Agreement. The parties understand and agree that this waiver is a material contract term. This agreement is not subject to arbitration. If any party is required to enforce the terms of this Agreement by court proceedings or otherwise, whether or not formal legal action is required, each party shall pay its own attorney's fees and costs.
- 8.17 Amendments. No modification, amendment or alteration in the terms or conditions contained herein shall be effective unless contained in a written document prepared with the same or similar formality as this Agreement.

- 8.18 Prior Agreements. This Agreement and its attachments constitute the entire agreement between DESIGN-BUILD FIRM and CITY, and this document incorporates and includes all prior negotiations, correspondence, conversations, agreements, and understandings applicable to the matters contained herein and the parties agree that there are no commitments, agreements or understandings concerning the subject matter of this Agreement that are not contained in this document. Accordingly, the parties agree that no deviation from the terms hereof shall be predicated upon any prior representations or agreements, whether oral or written. It is further agreed that no modification, amendment or alteration in the terms or conditions contained here shall be effective unless set forth in writing in accordance with Section 8.17 above.
- 8.19 Drug-Free Workplace. DESIGN-BUILD FIRM shall maintain a drug-free workplace.
- 8.20 Incorporation by Reference. The truth and accuracy of each "Whereas" clause set forth above is acknowledged by the parties. The attached Exhibits are incorporated hereto and made a part of this Agreement.
- 8.21 Multiple Originals. This Agreement may be fully executed in two (2) copies by all parties each of which, bearing original signatures, shall have the force and effect of an original document.
- 8.22 Headings. Headings are for convenience of reference only and shall not be considered in any interpretation of this Agreement.
- 8.23 Binding Authority. Each person signing this Agreement on behalf of either party individually warrants that he or she has full legal power to execute this Agreement on behalf of the party for whom he or she is signing, and to bind and obligate such party with respect to all provisions contained in this Agreement.
- 8.24 Survival of Provisions. Any terms or conditions of this Agreement that require acts beyond the date of its termination shall survive the termination of this Agreement, shall remain in full force and effect unless and until the terms of conditions are completed, and shall be fully enforceable by either party.
- 8.25 Truth-in-Negotiation Certificate. Signature of this Agreement by DESIGN-BUILD FIRM shall act as the execution of a truth-in-negotiation certificate stating that wage rates and other factual unit costs supporting the compensation of this Agreement are accurate, complete, and current at the time of contracting. The original contract price and any additions thereto shall be adjusted to exclude any significant sums by which the CITY determines the contract price was increased due to inaccurate, incomplete or noncurrent wage rates and other factual unit costs. All such contract adjustments must be made within one year following the end of this Agreement.
- 8.26 Non-Appropriation of Funds. In the event no funds or insufficient funds are appropriated and budgeted or are otherwise unavailable in any fiscal year for payments due under this Agreement, then the CITY, upon written notice to DESIGN-BUILD FIRM of such occurrence, shall have the unqualified right to terminate this Agreement without any penalty or expense to the CITY.

8.27 Representative Designated for Each Party. The CITY designates the City Manager or designee as the person to whom all communications pertaining to the day-to-day operations of this Agreement shall be addressed. DESIGN-BUILD FIRM shall inform the CITY representative in writing of the representative of DESIGN-BUILD FIRM to whom all communications pertaining to the day-to-day action of this Agreement shall be addressed.

8.28 Default

- A. An event of default shall mean a breach of this Agreement by the DESIGN-BUILD FIRM. Without limiting the generality of the foregoing and in addition to those instances referred to as a breach, an event of default shall include the following:
1. DESIGN-BUILD FIRM has not performed services on a timely basis;
 2. DESIGN-BUILD FIRM has refused or failed, except in the case for which an extension of time is provided, to supply enough properly skilled Staff personnel;
 3. DESIGN-BUILD FIRM has become insolvent or has assigned the proceeds received for the benefit of the DESIGN-BUILD FIRM's creditors, or the DESIGN-BUILD FIRM has taken advantage of any insolvency statute or debtor/creditor law or if the DESIGN-BUILD FIRM's affairs have been put in the hands of a receiver;
 4. DESIGN-BUILD FIRM has failed to obtain the approval of the CITY where required by this Agreement;
 5. DESIGN-BUILD FIRM has refused or failed, except in the case for which an extension of time is provided, to provide the Services as defined in this Agreement.
- B. In the event DESIGN-BUILD FIRM fails to comply with the provisions of this Agreement the CITY may declare the DESIGN-BUILD FIRM in default, notify the DESIGN-BUILD FIRM in writing, and give the DESIGN-BUILD FIRM a reasonable time to cure the default. In no event shall the time period for curing the defect exceed fifteen (15) business days unless otherwise agreed to by the parties. If the DESIGN-BUILD FIRM fails to cure the default, compensation will only be for any completed professional services. In the event payment has been made for such professional services not completed, the DESIGN-BUILD FIRM shall return these sums to the CITY within ten (10) days after notice that these sums are due. Nothing in this Section shall limit the CITY's right to terminate, at any time, pursuant to this Agreement.
- C. In an Event of Default, the DESIGN-BUILD FIRM shall be liable for all damages resulting from the default, including but not limited to:
1. lost funding, and

2. the difference between the cost associated with procuring services and the amount actually expended by the CITY, including procurement and administrative costs.
3. the CITY may take advantage of each and every remedy specifically existing at law or in equity. Each and every remedy shall be in addition to every other remedy specifically given or otherwise existing and may be exercised from time to time as often and in such order as may be deemed expedient by the CITY. The exercise or the beginning of the exercise of one remedy shall not be deemed to be a waiver of the right to exercise any other remedy. The CITY's rights and remedies as set forth in this Agreement are not exclusive and are in addition to any other rights and remedies available to the CITY in law or in equity.

8.29 Independent CONTRACTOR

DESIGN-BUILD FIRM is an independent CONTRACTOR under this Agreement. Services provided by DESIGN-BUILD FIRM pursuant to this Agreement shall be subject to the supervision of CONTRACTOR. In providing such services, neither DESIGN-BUILD FIRM nor its agents shall act as officers, employees or agents of the CITY. Personnel policies, tax responsibilities, social security and health insurance, employee benefits, purchasing policies and other similar administrative procedures applicable to services rendered under this Agreement shall be those of DESIGN-BUILD FIRM. This Agreement shall not constitute or make the parties a partnership or joint venture.

8.30 E-Verify

DESIGN-BUILD FIRM shall comply with Section 448.095, Florida Statutes, "Employment Eligibility," including the registration and use of the E-Verify system to verify the work authorization status of employees. Failure to comply with Section 448.095, Florida Statutes shall result in termination of this Agreement. Pursuant to Section 448.095, Florida Statutes, any challenge to termination under this provision must be filed in the Circuit Court no later than 20 calendar days after the date of termination. Pursuant to Section 448.095, Florida Statutes, if this Agreement is terminated for a violation of the statute by DESIGN-BUILD FIRM, DESIGN-BUILD FIRM may not be awarded a public contract for a period of 1 year after the date of termination.

- 8.31 CITY and DESIGN-BUILD FIRM agree that this Agreement and any other documents to be delivered in connection herewith may be electronically signed, and that any electronic signatures appearing on this Agreement or such other documents are the same as handwritten signatures for the purposes of validity, enforceability, and admissibility.

[THIS SPACE INTENTIONALLY LEFT BLANK]

AGREEMENT BETWEEN THE CITY OF WESTON, FLORIDA (THE "CITY") AND
FOR RFQ NO. 2024-03 FOR DESIGN BUILD SERVICES VISTA PARK
ARTIFICIAL TURF FIELDS.

IN WITNESS WHEREOF, the parties hereto have made and executed this Agreement on the respective dates under each signature: City of Weston through its City Commission, signing by and through its Mayor, authorized to execute same by Commission action on the ____ day of _____, 20__; and _____ authorized to execute same.

CITY OF WESTON,
through its City Commission

By: _____
Margaret Brown, Mayor

ATTEST:

____ day of _____, 2024

Patricia A. Bates, MMC, City Clerk

By: _____
Donald P. Decker, City Manager /CEO

Approved as to form and legality
for the use of and reliance by the
City of Weston only:

____ day of _____, 2024

(CITY SEAL)

By: _____
Jamie Alan Cole, City Attorney

____ day of _____, 2024

AGREEMENT BETWEEN THE CITY OF WESTON, FLORIDA (THE "CITY") AND
_____ FOR RFQ NO. 2024-03 FOR DESIGN BUILD SERVICES VISTA PARK
ARTIFICIAL TURF REPLACEMENTS

DESIGN-BUILD FIRM:

By: _____

_____ day of _____, 20____

EXHIBIT A
CERTIFICATE OF INSURANCE

ATTACH CERTIFICATE OF INSURANCE

**EXHIBIT B
FEE SCHEDULE**

The DESIGN-BUILD FIRM offers the following for providing all labor, materials, equipment, travel, and safety requirements, and any other requirements outlined in the RFQ document for Vista Park Artificial Turf Soccer Fields to perform the scope of services. The lump sum costs for each individual portion of the Work as set out herein shall be inclusive of all costs.

Item	Description of Item	UOM	Qty	Price
1	Design & Permitting	LS	1	\$
2	Artificial Turf Fields - Construction	LS	1	\$
3	Shade Structures and Park Hardscape Features	LS	1	\$
4	Permit Fee Allowance	LS	1	\$15,000.00
5	Owner's Contingency	LS	1	\$15,000.00
Guaranteed Maximum Price - Grand Total (Items 1 thru 5):				\$

Grand Total (Written in words)

Name of DESIGN-BUILD FIRM (Please Print)

Signature

Title

Date

EXHIBIT C

DESIGN-BUILD FIRM'S SUB-CONTRACTORS LIST

DESIGN-BUILD FIRM shall provide a comprehensive list of all sub-contractors (if any) and the work to be performed.

Item#	Sub-Contractor Company Name and Employer Identification Number	Work to be Performed
1		
2		
3		
4		
5		
6		
7		
8		
9		

[THIS SPACE INTENTIONALLY LEFT BLANK]

EXHIBIT D
TRANSITION PLAN – N/A

EXHIBIT E

PERFORMANCE & PAYMENT SECURITY

Any singular reference to DESIGN-BUILD FIRM, Surety, CITY or other party shall be considered plural where applicable.

DESIGN-BUILD FIRM (name and address)

SURETY (name & principal address):

CITY:

City of Weston
17200 Royal Palm Blvd.
Weston, Florida 33326

AGREEMENT

Date:

Amount:

Services as needed. Not for a fixed amount.

Description: Design Build Services Vista Park Artificial Turf Soccer Fields
Location: Vista Park, City of Weston, FL
City of Weston RFP NO. 2024-03

BOND

Date (not earlier than Agreement Date):

Amount:

(Grand total for Construction)

Modifications to this Bond: None _____

See Page(s) _____

EXHIBIT E
PERFORMANCE & PAYMENT SECURITY
(CONTINUED)

DESIGN-BUILD FIRM AS PRINCIPAL

SURETY

Signature

Signature

Name

Name

Title

Title

(Any additional signatures please include at the end of this form)

FLORIDA RESIDENT AGENT

Address

Phone

Fax

EXHIBIT E

PERFORMANCE & PAYMENT SECURITY

(CONTINUED)

1. DESIGN-BUILD FIRM and the Surety, jointly and severally bind themselves, their heirs, executors, administrators, successors and assigns to CITY for the performance of the Agreement, which is incorporated herein by reference.
2. If DESIGN-BUILD FIRM performs the Agreement, the Surety and DESIGN-BUILD FIRM shall have no obligation under this Bond, except to participate in conferences.
3. If there is no CITY Default, the Surety's obligation under this Bond shall arise after:
 - A. CITY has notified DESIGN-BUILD FIRM and the Surety at its address described in paragraph 10 below that CITY is considering declaring a DESIGN-BUILD FIRM Default and has requested and attempted to arrange a conference with DESIGN-BUILD FIRM and the Surety to be held not later than 15 days after receipt of such notice to discuss methods of performing the Agreement. If CITY, DESIGN-BUILD FIRM and the Surety agree, DESIGN-BUILD FIRM shall be allowed a reasonable time to perform the Agreement, but such an agreement shall not waive CITY'S right, if any, subsequently to declare a DESIGN-BUILD FIRM Default; and
 - B. CITY has declared a DESIGN-BUILD FIRM Default and formally terminated DESIGN-BUILD FIRM'S right to complete the Agreement. Such DESIGN-BUILD FIRM Default shall not be declared earlier than 20 days after DESIGN-BUILD FIRM and the Surety have received notice of such termination; and
 - C. CITY has agreed to pay the Balance of the Agreement Price to the Surety in accordance with the terms of the Agreement or to a DESIGN-BUILD FIRM selected to perform the Agreement in accordance with the terms of the Agreement with CITY.
4. When CITY has satisfied the conditions of paragraph 3, the Surety shall promptly and at the Surety's expense take one of the following actions:
 - A. Arrange for DESIGN-BUILD FIRM, with consent of CITY, to perform and complete the Agreement; or
 - B. Undertake to perform and complete the Agreement itself, through its agents or through independent DESIGN-BUILD FIRMS; or

EXHIBIT E

PERFORMANCE & PAYMENT SECURITY

(CONTINUED)

- C. Obtain bids or negotiated proposals from qualified DESIGN-BUILD FIRMS acceptable to CITY for an Agreement for performance and completion of the Agreement, arrange for an Agreement to be prepared for execution by CITY and DESIGN-BUILD FIRM selected with CITY'S concurrence, to be secured with performance & payment bonds executed by a qualified Surety equivalent to the bonds issued on the Agreement, and the Balance of the Agreement Price incurred by CITY resulting from DESIGN-BUILD FIRM's default; or
 - D. Waive its right to perform and complete, arrange for completion, or obtain a new DESIGN-BUILD FIRM acceptable to CITY and with reasonable promptness under the circumstances:
 - i. After investigation, determine the amount for which it may be liable to CITY and, as soon as practicable after the amount is determined, tender payment therefore to CITY; or
 - ii. Deny liability in whole or in part and notify CITY citing reasons therefore.
5. If the Surety does not proceed as provided in paragraph 4 with reasonable promptness, the Surety shall be deemed to be in default on this Bond, 15 days after receipt of an additional written notice from CITY to the Surety demanding that the Surety perform its obligations under this Bond, and CITY shall be entitled to enforce any remedy available to CITY. If the Surety proceeds, without proper notice to CITY, CITY shall be entitled to enforce any remedy available to CITY.
6. After CITY has terminated DESIGN-BUILD FIRM's right to complete the Agreement, and if the Surety elects to act, then the responsibilities of the Surety to CITY shall not be greater than those of DESIGN-BUILD FIRM under the Agreement, and the responsibilities of CITY to the Surety shall not be greater than those of CITY under the Agreement. To the limit of the amount of this Bond, but subject to commitment by CITY of the Balance of the Agreement Price to mitigation of costs and damages on the Agreement, the Surety is obligated without duplication for:
- A. The responsibilities of DESIGN-BUILD FIRM for correction of defective work and completion of the Agreement;

EXHIBIT E

PERFORMANCE & PAYMENT SECURITY

(CONTINUED)

- B. Additional legal, design professional and delay costs resulting from DESIGN-BUILD FIRM's Default, and resulting from the actions or failure to act of the Surety under paragraph 4; and
 - C. Liquidated damages, or if no liquidated damages are specified in the Agreement, actual damages caused by delayed performance or non-performance of DESIGN-BUILD FIRM.
7. The Surety shall not be liable to CITY or others for obligations of DESIGN-BUILD FIRM that are unrelated to the Agreement, and the Balance of the Agreement Price shall not be reduced or set off on account of any such unrelated obligations. No right of action shall accrue on this Bond to any person or entity other than CITY or its heirs, executors, administrators or successors.
 8. The Surety hereby waives notice of any change, including changes of time, to the Agreement or to related subcontracts, purchase orders and other obligations.
 9. Any proceeding, legal or equitable, under this Bond may be instituted in any court of competent jurisdiction in the location in which the work or part of the work is located and shall be instituted within two years after DESIGN-BUILD FIRM Default or within two years after DESIGN-BUILD FIRM ceased working or within two years after the Surety refuses or fails to perform its obligations under this Bond, whichever occurs first. If the provisions of this paragraph are void or prohibited by law, the minimum period of limitation available to sureties as a defense in the jurisdiction of the suit shall be applicable.
 10. Notice to the Surety, CITY or DESIGN-BUILD FIRM shall be mailed or delivered to the address shown on the signature page.
 11. When this Bond has been furnished to comply with a statutory or other legal requirement in the location where the work was to be performed, any provision in this Bond conflicting with said statutory or legal requirement shall be deemed deleted here from and provisions conforming to such statutory or other legal requirement shall be deemed incorporated herein. The intent is that this Bond shall be construed as a statutory bond and not as a common law bond.

EXHIBIT E

PERFORMANCE & PAYMENT SECURITY

(CONTINUED)

DEFINITIONS

- A. Balance of the Agreement Price: The total amount payable by CITY to DESIGN-BUILD FIRM under the Agreement after all proper adjustments have been made including allowance to DESIGN-BUILD FIRM of any amounts received or to be received by CITY in settlement of insurance or other claims for damages to which DESIGN-BUILD FIRM is entitled, reduced by all valid and proper payments made to or on behalf of DESIGN-BUILD FIRM under the Agreement.
- B. Agreement: The agreement between CITY and DESIGN-BUILD FIRM identified on the signature page, including all Contract Documents and changes thereto.
- C. DESIGN-BUILD FIRM Default: Failure of DESIGN-BUILD FIRM, which has neither been remedied nor waived, to perform or otherwise to comply with the terms of the Agreement.
- D. CITY Default: Failure of CITY, which has neither been remedied nor waived, to pay DESIGN-BUILD FIRM as required by the Contract or to perform and complete or comply with the other terms thereof.

MODIFICATIONS TO THIS BOND ARE AS FOLLOWS:

(Space is provided below for additional signatures of added parties, other than those appearing on the cover page.)

DESIGN-BUILD FIRM AS PRINCIPAL

SURETY

Signature

Signature

Name

Name

Title

Title